

**CHRISTIAN CONCERN FOR OUR NATION/
CHRISTIAN LEGAL CENTRE RESPONSE TO
THE BCAP CODE REVIEW
JUNE 2009**



*Changing Society to put the
Hope of Christ at its Centre*



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Responding to this consultation

How to respond

BCAP invites written comments including supporting evidence on the proposals contained in this document, by 5pm on 19 June. Respondents should complete a consultation cover sheet, which is made available [here](#).

When responding, please state if you are doing so as an individual or if you are representing an organisation. Also, please make clear what your individual interest is or who your organisation represents. It will be helpful if you explain fully and clearly why you hold your opinion.

We strongly prefer to receive responses as e-mail attachments, in Microsoft Word format, because that helps us to process the responses.

Please send your response to BCAPcodereview@cap.org.uk.

If you are unable to reply by e-mail, you may submit your response by post or fax (+44 (0)20 7404 3404), marked with the title of the consultation, to:

BCAP Code Review
Code Policy Team
Broadcast Committee of Advertising Practice
Mid City Place
71 High Holborn
London WC1V 6QT

Accessibility

We want our consultation process to be accessible to everyone. If you have particular accessibility needs please contact the Code Policy team and we shall be happy to help.

Telephone: 020 7492 2200

E-mail: BCAPcodereviewquestions@cap.org.uk

Fax: 020 7404 3404

Textphone: 020 7242 8159

Note that we do not need a hard copy in addition to an electronic version. Also note that, other than an automated response to responses received by email, BCAP will not routinely acknowledge receipt of responses.

BCAP has sent written notification of this consultation to the organisations and individuals listed in this annex. We welcome suggestions of others you think should be informed of this consultation.

More information

If you have any questions about this consultation or need advice on the form of response, please contact BCAP's Code Policy team on +44 (0)20 7492 2200 or email us at BCAPcodereviewquestions@cap.org.uk.

Confidentiality

BCAP considers that everyone who is interested in the consultation should see the consultation responses. We shall publish all non-confidential responses on our website, www.cap.org.uk, when we announce the outcome of the consultation.

All comments will be treated as non-confidential unless you state that all or a specified part of your response is confidential and should not be disclosed. If you reply by e-mail or fax, unless you include a specific statement to the contrary in your response, the presumption of non-confidentiality will override any confidentiality disclaimer generated by your organisation's IT system or included as a general statement on your fax cover sheet.

If part of a response is confidential, please put that in a separate annex so that non-confidential parts may be published with your identity. Confidential responses will be included in any statistical summary of numbers of comments received.

Response

About Us

Christian Concern for our Nation (CCFON) is a policy and legal resource centre that identifies changes in policy and law that may affect the Judeo-Christian heritage of this nation. The team of lawyers and advisers at CCFON conduct research into, and campaign on, legislation and policy changes that may affect Christian Freedoms or the moral values of the UK. CCFON serves a mailing list reaching 25,000 supporters.

CCFON is linked to a sister and separate organisation, the Christian Legal Centre, which takes up cases affecting Christian freedoms. .

Executive Summary

1. The Broadcast Committee of Advertising Practice (BCAP) and the broadcast arm of the Advertising Standards Authority (ASA) regulate advertising. CCFON/CLC welcomes the opportunity to respond to this consultation on the BCAP Code review on TV and radio advertising.
2. Combining the previously separated radio and TV advertising codes failed to produce a “single-user-friendly Code” as intended. Unfortunately, it also resulted in the lowering of code standards. This is partly because the Code insufficiently accounts for the audio-visual impact of TV. Generally, proposed changes in the Code tend to operate on the basis of the lowest common denominator of comparative standards for radio and TV.
3. A shorter joint code resulted in creating weaker principles. These weaker principles make it substantially more difficult for an individual to complain about falling standards and much easier to ignore complaints. While the skeleton remains, important nuances and explanatory descriptions which flesh out the body of the Code have been removed.
4. The principle in the harm and offence section – (i.e., taking account of “generally acceptable standards” rather than “high standards” as the criteria for measuring the risk of causing harm or serious or widespread offence) will lead to a serious lowering of Code standards. In our opinion, the proposed changes make the Code ineffectual and unable to meet its statutory obligations.
5. The stated aim of ASA is to “make sure all advertising, wherever it appears, meets the high standards laid down in the advertising codes”.¹ Unfortunately the proposed BCAP code fails to achieve high standards and relaxes existing benchmarks. It is our hope that ASA/BCAP will revise these proposals to avoid such a result.
6. The statutory framework for this Code must meet the standard objectives required under s.319 (2). This standard requires protection of persons under 18. It further requires government to prevent misleading, harmful or offensive advertising in television and radio.
7. The proposed change to allow profit-motivated abortion advertising fails to meet these statutory obligations. Current advertising of the morning after pill and condoms likewise fail to meet these same legal requirements. The proposed profit-motivated abortion advertising deeply offends citizens holding a belief system grounded in sincerely held religious tenets. Commercial pandering of abortion and related services should, therefore, be prohibited. Abortion advertising to increase the already high level of abortions at a time of increasing concern about repeated teenage abortions is counterproductive. It also ignores the serious mental health implications of abortion. Commercial profits should never come at the expense of a woman’s health.
8. The Code keeps fairly tight restrictive advertising rules for charities and religious organisations yet relaxes the Code in areas where the young or vulnerable are in need of protection. To be sure, some categories of advertising should remain prohibited: (such as betting tipsters, encrypting pornography or R18 material; services offering advice on consumer or personal problems; private investigation agencies and live premium rate services which target the under 18). In our view, the government should extend this list of prohibited categories to include alcohol advertising.

¹ See <http://www.asa.org.uk/asa>

9. The watershed of 9pm may need revising upwards to 10pm or 11pm considering that many teenagers own their own TVs (and view TV later in the evening).
10. In view of the statutory obligations, the proposed Code should not weaken the harm and offence section. Yet it does so by: 1) removing standards on shared values on sex and nudity; 2) removing standards on the use of offensive language; 3) removing standards on the portrayal of sexual violence; 4) removing standards concerning respect for spiritual beliefs; and 5) removing standards concerning respect for the interest and dignity of minorities. It is highly surprising the government proposes such changes in light of the OFCOM broadcasting code protections for children under 18 (dealing with matters such as offensive language, sex, and nudity).²
11. The proposal insufficiently regards the need to ensure that advertisements are not directly or indirectly discriminatory on the grounds of religion or belief. Whilst the EHRC enforce such advertising obligations³, the Code itself must have serious regard for complaints of offence on the grounds of religion or belief.
12. In summary, the proposed BCAP code fails to meet its legal obligations and the Advertising Standards Authority's aim of the requirement for high standards in advertising codes. The proposed BCAP code needs to be revised in order to meet such standards.

Annex 3

You may respond to some or all of the consultation questions. This Annex is provided in Word format to enable you to copy and paste the questions into a document that should accompany your completed cover sheet, which is made available . See 'Responding to this consultation' in this Annex.

² See section 1 <http://www.ofcom.org.uk/tv/ifi/codes/bcode/protectingu18>

³ See section 54 Equality Act 2006 http://www.opsi.gov.uk/acts/acts2006/ukpga_20060003_en_5#pt2-pb3-11g54

Section 1: Compliance

Question 1

Given BCAP's policy consideration, do you agree that rule 1.2 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Yes.

Question 2

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Compliance Section are necessary and easily understandable? If your answer is no, please explain why.

Yes.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Compliance rules that are likely to amount to a significant change in advertising policy and practice and are not reflected here and that should be retained or otherwise be given dedicated consideration?

There do not appear to be any significant changes apart from the addition of rule 1.2. Please see our answer to question 1.

iii) Do you have other comments on this section?

No.

Section 2: Recognition of Advertising

Question 3

i) Given BCAP's policy consideration, do you agree that rule 2.1 should replace present TV rules 2.1.2 (b) and 2.2.2 (c), be applied to TV and radio and be included in the proposed BCAP Code? If your answer is no, please explain why. Yes, except that rule 2.2. 2. (c) does add a clarification point which should be included.

ii) Given BCAP's policy consideration, do you agree that rule 2.3 should replace present TV rule 2.2.2 (d), be applied to TV and radio and be included in the proposed BCAP Code? If your answer is no, please explain why.

Yes.

Question 4

Given BCAP's policy consideration, do you agree that rule 2.2 should replace present TV rule 2.1.2 (a), be applied to TV and radio and be included in the proposed BCAP Code? If your answer is no, please explain why.

No, because the proposed rule is much weaker. Rule 2.1.2 (a) is a more rigorous rule because it makes it clear that advertisements must not use expressions reserved for important news and public service announcements. It is important to retain this rule to avoid confusion between news content and commercial advertisements.

Question 5

i) Given BCAP's policy consideration, do you agree that present TV rule 2.2.1 should not be included in the proposed BCAP Code? If your answer is no, please explain why.

Rule 2.2.1 needs to be modified rather than entirely removed. OFCOM may have the overall responsibility for the content and scheduling of programmes but Broadcasters practically implement these rules and an amended rule should reflect that.

ii) Given BCAP's policy consideration, do you agree that present TV rule 2.2.2 (a) should not be included in the proposed BCAP Code? If your answer is no, please explain why.

No, rule 2.2.29(a) should be retained to avoid phrases such as seen "on such and such a show". This will ensure that there is a clear distinction between programmes and commercial advertising.

Question 6

i) Given BCAP's policy consideration, do you agree that radio rule 18, section 2, should not be included in the proposed Code? If your answer is no, please explain why.

No, it is important to maintain the rule that station presenters should not make personal testimonials with advertisements on stations in which they appear. This is to make a clear distinction between their role as presenter and advertiser.

ii) Given BCAP's policy consideration, do you agree that radio station presenters who do not currently and regularly read the news should be exempted from the rule that restricts presenters from featuring in radio advertisements that promote a product or service that could be seen to compromise the impartiality of their programming role? If your answer is no, please explain why.

No, it would be better to apply rule 2.4 to radio as well. This will ensure that there will be no confusion between impartial news presentation and advertisements.

Question 7

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules on the Recognition of Advertising are necessary and easily understandable? If your answer is no, please explain why.

They are necessary but the present code provides a more easily understandable explanation and should be maintained. This is to avoid a relaxation and weakening of the code. For example, the current rule 2.1.2 clearly states what advertisements must not do in the recognition of advertising section and 2.2 is a watered down version referring to the need for special care instead.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Recognition of Advertising rules that are likely to amount to a significant change in advertising policy and practice and are not reflected here or in Section 32 on Scheduling and that should be retained or otherwise be given dedicated consideration?

Please see our answer to question 7 i).

iii) Do you have other comments on this section?

No.

Section 3: Misleading

Question 8

Given BCAP's policy consideration, do you agree that rules 3.4 and 3.5 should be included in the Code? If your answer is no, please explain why.

Yes to rule 3.5. but no to rule 3.4. being included in the Code. Rule 3.4. is an additional new rule to allow for obvious exaggeration (puffery) in advertisements. We would oppose this additional rule as there are many vulnerable and gullible people who may be misled even by obvious exaggeration in advertisements.

Question 9

Given BCAP's policy consideration, do you agree that rule 3.13 should be included in the Code? If your answer is no, please explain why.

Yes.

Question 10

Given BCAP's policy consideration, do you agree that rule 3.23 should be included in the Code? If your answer is no, please explain why.

Yes.

Question 11

i) Given BCAP's policy consideration, do you agree that rule 3.27 should be included in the Code? If your answer is no, please explain why.

Yes.

ii) Given BCAP's policy consideration, do you agree that rule 3.28.2 should be included in the Code? If your answer is no, please explain why.

Yes.

Question 12

Given BCAP's policy consideration, do you agree that rule 3.39 should be included in the Code? If your answer is no, please explain why.

Yes.

Question 13

Given BCAP's policy consideration, do you agree that the rule on subliminal advertising is relevant to radio and should, therefore, be apply to radio as well as TV advertisements? If your answer is no, please explain why.

Yes.

Question 14

Given BCAP's policy consideration, do you agree that rule 3.18 should be included? If your answer is no, please explain why.

No, there is a weakening of the current rule 5.3.3 which should be retained for consumer protection.

Question 15

Given BCAP's policy consideration, do you agree that rule 3.19 should be included in the Code? If your answer is no, please explain why.

No, there is a weakening of the current rule 5.3.3 which should be retained for consumer protection.

Question 16

Given BCAP's policy consideration, do you agree that rule 3.22 should be included in the Code? If your answer is no, please explain why.

Yes.

Question 17

i) Given BCAP's policy consideration, do you agree that rule 3.25 should be included in the Code? If your answer is no, please explain why.

Yes.

ii) Given BCAP's policy consideration, do you agree that rule 3.26 should be included in the Code? If your answer is no, please explain why.

Yes.

Question 18

Given BCAP's policy consideration, do you agree that rule 3.28.3 should apply to TV and radio advertisements? If your answer is no, please explain why.

Yes.

Question 19

Given BCAP's policy consideration, do you agree that the proposed amendment in 3.43 correctly reflects the BPRs 4(i) requirement? If your answer is no, please explain why.

Yes.

Animal testing

Question 20

Given BCAP's Policy consideration, do you agree that rule 5.2.7 should not be included in the Code? If your answer is no, please explain why.

Yes, there is no reason why it is not possible to say in an advertisement that a

product has not been tested on animals.

Advertisements for solicitors and advertisements for conditional fee arrangements which claim, ‘no win no fee’.

Radio advertisements by or on behalf of solicitors

Question 21

Given BCAP’s policy consideration, do you agree that it is not necessary to include in the BCAP Code the requirement for advertisements by or on behalf of solicitors to comply with the Solicitors Code of Conduct? If your answer is no, please explain why?

Yes but the second part of the present radio code rule on the issue of “no win no fee” should be included to protect consumers.

Radio advertisements for conditional fee arrangements which claim ‘no win, no fee’

Question 22

Given BCAP’s policy consideration, do you agree that it is not necessary to maintain, in BCAP’s proposed Code, a rule that requires advertisements for conditional fee arrangements which claim ‘no win, no fee’ to suitably qualify if the client is (or may be) required to pay any costs or fees (including those of the other party), such as insurance premiums or disbursements? If your answer is no, please explain why.

No it is necessary, see answer to question 21.

Other questions

Question 23

i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules in the Misleading Section are necessary and easily understandable? If your answer is no, please explain why?

Yes but see answer to question ii).

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Misleading rules that are likely to amount to a significant change in advertising policy and practice and are not reflected here and that should be retained or otherwise be given dedicated consideration?

We disagree that there should be any weakening or relaxation of the code in this misleading section of the Code. For example, current rules 5.1.1 and 5.4.1. are stronger in prohibition terms than the proposed rule 3.1 and the second part of the proposed 3.2.rule similarly weakens the current 5.1.3 rule.

iii) Do you have other comments on this section?

No

Section 4: Harm and Offence

Crime and anti-social behaviour

Question 24

Do you agree that rule 4.7 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Yes agreed that the new rule 4.7 should be included. Advertisements should not condone or encourage crime, disorder or anti-social behaviour.

Protection of the environment – radio

Question 25

Do you agree that proposed rule 4.10 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Yes, the same rule that advertisements should not condone or encourage crime, disorder or anti-social behaviour should apply to radio as well as TV. This should include a ban on alcohol advertising.

Harm

Question 26

Taking into account its policy consideration, do you agree with BCAP's proposal not to include in the proposed Code the present radio Harm rule (rule 10, section 2 of the present Radio Code)? If your answer is no, please explain why.

No, we disagree. The radio rule specifically states that advertisers must not harm listeners, nor exploit either personally or financially, their vulnerability. Whilst the general principles would help ensure this does not happen, this rule should still be included. It provides a higher level of specific protection for the vulnerable than the general principle covering serious or widespread offence or harm. The radio harm rule should be extended to watchers of TV. The need not to exploit the vulnerable found in this rule is particularly important. The proposals for abortion services advertisements do not provide that protection, which is another reason why adverts on abortion should not be on the radio and TV. Please see our answer to question 62.

Other questions

Question 27

i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Harm and Offence section, are necessary and easily understandable? If your answer is no, please explain why.

Apart from the inclusion of rules that advertisements should not condone or encourage crime, disorder or anti-social behaviour, the current code should be retained.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Harm and Offence rules that are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?

We strongly disagree with the changes being made to this section and believe that they will result in a significant weakening of the code and make it an ineffective vehicle to maintain advertising standards. The detail in this section must be retained.

The current code makes it clear that the rules are to prevent advertising causing offence to viewers generally or to particular groups in society (for example by causing significant distress, disgust or insult, or by offending against widespread public feeling). This is replaced by the less detailed principle statement that “Advertisements must take account of generally accepted standards to minimise the risk of causing harm or serious or widespread offence” The BCAP Code should aim to maintain high standards of advertising not to let standards slip to the lowest common denominator of “generally accepted” standards with the BCAP arbitrarily deciding exactly what those are and taking no account of the views of “particular groups in society”. This new proposed principle could easily be used to allow virtually every type of advertisement even if a significant number of people from particular groups in society complained. The word “widespread” offence could be used to ignore virtually every complaint. We would suggest that the current code should be kept and improved upon in the draft below:

“Advertisements must not be harmful or offensive. Advertisements must prevent causing offence to viewers generally or to particular groups. (For example to prevent causing significant distress, disgust or insult or by offending against widespread public feeling). The context in which an advertisement is likely to be broadcast must be taken into account to avoid unsuitable scheduling. (See Annex 1: Scheduling). Account must also be taken of whether or not it is considered harmful or offensive in view of its audio or audio-visual impact as a result of being broadcast on radio or TV.”

The new proposed rule 4.1 omits the phrase “or offends against public feeling”. It is very important that this phrase is included. Does this mean that advertisements

are now to be allowed to offend against public feeling in a section which is meant to provide protection against harm and offence?

In addition the current rule 6.1. provides important explanatory notes which help to sustain and maintain higher standards. These notes should be retained and included in the proposed Code. They include standards on shared values on sex and nudity and the use of offensive language, the portrayal of sexual violence, respect for spiritual beliefs and respect for the interest and dignity of minorities.

The proposed rule 4.8. should state that advertisements must not distress the audience, it should not add the proviso of “without justifiable reason”.

iii) Do you have other comments on this section?

The statutory framework is based upon ensuring that advertising which is harmful and offensive in television and radio is prevented. Yet the proposed changes would result in a significant relaxation of the rules in this section on harm and offence. The lowering of standards is not only based upon narrowing the remit for particular groups to complain but will result in basing judgments upon an arbitrary standard of whatever the BCAP happen to think are generally accepted standards (without any explanatory notes to anchor these standards in shared values with higher standards of advertising).

Section 5: Children

Exploitation of trust

Question 28

Given BCAP’s policy consideration, do you agree that rule 5.7 should be included in the Code? If your answer is no, please explain why.

Yes but with additions to it.

Proposed Rule 5.7.states that Advertisements must not exploit the special trust placed in parents, guardians, teachers or other parents.

In order to comply with the AVWS Directive this should also say that “TV advertisements must not cause physical or moral detriment to minors.”

It is important that the moral protection of children is included.

Expensive products of interest to children

Question 29

i) Given BCAP’s policy consideration, do you agree rule 5.14 should be applied to advertisements broadcast on all Ofcom-licensed television channels and not only those broadcast to a UK audience? If your answer is no, please explain why.

Yes

ii) Given BCAP’s policy consideration, do you agree rule 5.14 should define an ‘expensive’ product of interest to children to be £30 or more? If your answer is no, please explain why.

Yes

iii) Given BCAP’s policy consideration, do you agree rule 5.14 should be included in the Code? If your answer is no, please explain why.

Yes

Other questions

Question 34

i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Children section, are necessary and easily understandable? If your answer is no, please explain why.

No the rules will lower standards. The current principle correctly states that a need exists for special concern for the protection of children. The proposed principle compromises the paramount need to protect children from advertisements that cause physical, mental or moral harm.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Children rules that are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?

The current rules and notes should be retained, particularly all of the current rules 7.4,7.4.5 and 7.4.7 and explanatory notes Not portraying children in a “sexually provocative manner” in the current rule is much more descriptive and specific than in the proposed rule using the term “sexual way”. The scheduling descriptions should be maintained and there appears to be a lowering of standards in relation to age specific timings.

iii) Do you have other comments on this section?

We are concerned that the proposed rules in this section will lower standards and children must be properly protected.

Section 6: Privacy

Generic advertising for news media

Question 35

Given BCAP's policy consideration, do you agree that the proposed Code should not require 'generic advertising for news media' to be immediately withdrawn if a complaint is registered that a TV advertisement of that type has featured an

individual without his or her prior permission? If your answer is no, please explain why.

No, because a need exists to draft the rules in such a way that if someone can identify you in a crowd scene, you should have the right to stop an advertisement.

Other questions

Question 36

i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Privacy section, are necessary and easily understandable? If your answer is no, please explain why.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Privacy rules that are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?

iii) Do you have other comments on this section?

No

Section 7: Political and Controversial Issues

Reflecting the Act

Question 37

i) Given Ofcom's practical application of the present rule, do you agree that it is appropriate to reflect 321(3) of the Communications Act 2003 in BCAP's proposed rule on Political and Controversial Issues? If your answer is no, please explain why.

No in our opinion the sections of the Communications Act 2003 should not be repeated.

http://www.opsi.gov.uk/Acts/acts2003/ukpga_20030021_en_30

The unnecessary way in which this section links into the sections on religion and charities needs to be reviewed.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Political and Controversial Issues rules that you consider are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?

iii) Do you have other comments on this section?

In our view this section should not be cross-referenced with religion or charities. Please see our comments in answer to questions in those sections. There should be an additional rule to say that this section does not apply to religious, charitable or non-profit making organisations who wish to advance religion or provide a beneficial service. Religious belief should not be interpreted as political but correctly interpreted as an out working of moral beliefs deriving from religious belief.

Section 10: Prohibited Categories

The acquisition or disposal of units in collective investment schemes not authorised or recognised by the Financial Services Authority

Betting tips

Question 49

i) Given BCAP's policy consideration, do you agree that the ban on TV and radio advertisements for betting tips should be relaxed? If your answer is no, please explain why.

No, we would strongly disagree with the rules on betting tipsters being relaxed. There is no legal imperative to allow this and we agree with the remarks made in point 10.35 of the consultation that this could lead to scams. This could also

increase gambling addiction and result in complaints from poor tipsters predictions.

ii) Given BCAP's specific policy objectives to protect under 18s and the vulnerable and to prevent misleading and irresponsible claims in betting tipster advertisements, do you agree that BCAP's proposed rules are necessary and easily understood? If your answer is no, please explain why.

No, the best way to protect the under 18s and the vulnerable would be to retain the ban on betting tipster advertising.

Private investigation agencies

Question 50

i) Given BCAP's policy consideration, do you agree that the ban on TV advertisements for private investigation agencies should be relaxed? If your answer is no, please explain why.

No, the BCAP should maintain standards and not allow such advertising.

ii) Given its specific policy objective, do you agree that BCAP's proposed rule 29.2 is necessary and easily understood? If your answer is no, please explain why.

No, it is unnecessary and the present ban should be maintained. There is no independent recognised regulation of such agencies in order to ensure standards and the BCAP should not undertake such a task.

Question 51

Given BCAP's policy consideration, do you agree that proposed rule 29.1 should be included in the proposed BCAP Code? If your answer is no, please explain why.

No, because private investigation agency advertising should also be banned for radio. Central radio clearance would still allow such advertising.

Commercial services offering individual advice on personal or consumer problems

Question 52

i) Given BCAP's policy consideration, do you agree that the ban on TV advertisements for commercial services offering individual advice on consumer or personal problems should be relaxed? If your answer is no, please explain why.

No this is an area where the young and vulnerable are most at risk and the ban on advertisements in this area should continue.

ii) Given BCAP's specific policy objectives, do you agree that BCAP's proposed rule 26.2 is necessary and easily understood? If your answer is no, please explain why.

No, it is unnecessary and should not be allowed in the first place. No amount of credentials will make such advertising suitable or appropriate. The BCAP has to consider the audio-visual impact of TV for its audience, protect the under 18, and prevent harmful advertising.

Question 53

Given BCAP's policy consideration, do you agree that proposed rule 26.1 should be included in the proposed BCAP Code? If your answer is no, please explain why.

No, the advertisements should not be allowed in the first place

Pornography

Question 54

i) Given its policy consideration, do you agree with BCAP's proposal to relax the present prohibition on TV advertisements for pornography products and allow them to be broadcast on encrypted elements of adult entertainment channels only? If your answer is no, please explain why.

No, the present ban should be maintained. This proposed change is illustrative of a lowering of advertising and moral standards and should not be entertained even behind encryption.

ii) Given its specific policy objective, do you agree that BCAP's proposed rules are necessary and easily understood? If your answer is no, please explain why.

No, they are not necessary and there should be no relaxation of the current rules.

iii) Given BCAP's policy consideration, do you agree that advertisements for R18-rated material should be permitted to be advertised behind encrypted elements of adult entertainment channels only but that the content of those advertisements themselves must not include R18-rated material or its equivalent? If your answer is no, please explain why.

No, R18 material should not be advertised and should be prohibited even if the adverts themselves do not include R18 material. The nature of R18 material is such that it is only shown in specially licensed cinemas, or supplied only in licensed sex shops, and to adults of not less than 18 years.⁴ The need to protect children under 18 is a statutory obligation in the standard objectives of the Communications Act 2003. Encryption will not be a sufficient safeguard as children often have more technical know-how than their parents.

The Byron review which examined ratings, has suggested the greater need for the protection of the young in relation to 12+ categories so that they are rated on a statutory basis. This BCAP proposed change is in direct contradiction to that government accepted change in direction. If anything the BCAP should be tightening up the rules and extending them so that more care is taken for the 12+ category and not relaxing R18 adverts. Extra efforts need to be taken to ensure that the younger audience is protected from such sexually explicit material which

⁴ See http://www.bbfc.co.uk/classification/c_R18.php

are not age appropriate. In our opinion, R18 should be prohibited from being advertised on TV and radio.

http://www.dcsf.gov.uk/byronreview/pdfs/byron_action_plan.pdf

<http://www.dcsf.gov.uk/byronreview>

We are concerned that this proposal is being made when Parliament sought to safeguard and provide protection from R18 material by ensuring a licensing system was put in place.⁵ In our opinion, the proposals here overstep the mark into areas which require legislative prohibition.

Offensive weapons and replica guns

Question 55

Given its policy consideration, do you agree with BCAP's proposal to strengthen the present prohibition on TV advertisements for guns by prohibiting advertisements for offensive weapons and replica guns? If your answer is no, please explain why.

Yes, there is a great concern about increasing gun crime.

Question 56

Given its policy consideration, do you agree with BCAP's proposal to extend the present radio exception to the rule for references to clay pigeon shoots in advertisements only if they are promoted as part of a wider range of outdoor pursuits? If your answer is no, please explain why.

No, it would be better to have a simple and general ban without exceptions.

Breath-testing devices and products that purport to mask the effects of alcohol

Question 57

⁵ See section 12 of the Video Recordings Act 1984

<http://www.statutelaw.gov.uk/content.aspx?activeTextDocId=1810866>

Given its policy consideration, do you agree with BCAP's proposal to extend to radio the present TV ban on advertisements for breath-testing devices and products that purport to mask the effects of alcohol? If your answer is no, please explain why.

Yes.

Other Questions

Question 58

i) Taking into account its general policy objectives, do you agree that BCAP's rules, included in the proposed Prohibited Categories section, are necessary and easily understandable? If your answer is no, please explain why.

It is necessary to have prohibitions but this list of prohibitions should be extended beyond the current list and not allow the rules to be relaxed in any way.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Prohibited Categories rules that are likely to amount to a significant change in advertising policy and practice, which are not reflected here and that you believe should be retained or otherwise given dedicated consideration?

All of the current prohibitions should be maintained except we agree with the removal of the rule on some bodies subject to the rules on religion, faith and belief systems.

ii) Do you have other comments on this section?

The prohibition for TV should refer to all pre-conception and post-conception medicines, medical products, medical devices, advices, abortion services, and the morning after pill. This should also extend to a ban on advertising condoms, which is currently allowed. Pre-conception and post-conception medication should be banned whether or not on prescription. This prohibition should also apply to radio as well as TV. Please see our answer to question 62.

Section 11: Medicines, Medical Devices, Treatments, and Health

Services including clinics, establishments and the like offering advice on, or treatment in, medical, personal or other health matters

Question 59

Given BCAP's policy consideration, do you agree that rule 11.9 should be included in the proposed BCAP Code? If your answer is no, please explain why.

No, the fact that there is currently no rule for TV is presumably because the proposed code would now allow services including clinics for advice on personal, medical or other health matters. We do not consider that it is suitable for advice services to be advertised (including preconception and post-conception advice services and medication). In our opinion the new section 26 offering individual advice on personal problems should be prohibited to protect the young and vulnerable. A short commercial advert is unable to properly assess the mental health needs of the audience watching or prevent them from being exploited by such advertising. The need for medical credentials would also discriminate against pro-life organisations with non-medical volunteers and result in only abortion adverts being able to meet such criteria. Please see our answer to question 62.

Medicinal claims

Question 60

Given BCAP's policy consideration, do you agree that rule 11.4 should be included in the proposed BCAP Code? If your answer is no, please explain why.

No, rule 11.4 is about medical products and also refers to medical devices. The consultation text refers to a reference that is totally unclear on the difference between products and devices. The rule then confusingly refers to "a medical device that contains a medical substance that acts in a way which is ancillary to the device only." We note that non-hormonal intra-uterine contraceptive devices are mentioned in the further information reference given in the consultation text prior to this question. We do not believe that pre-conception or post-conception medical products, medical devices or, in the confusing words of this rule, "any

other medical device that contains a medical substance that acts in a way which is ancillary to the device only” should be advertised on TV or radio. This should be made clear in this rule and the prohibited section of this Code.

<http://www.mhra.gov.uk/home/groups/es-era/documents/publication/con007498.pdf>

The use of health professionals in advertisements

Question 61

i) Given BCAP’s policy consideration, do you agree that, unless prevented by law, it is not necessary to maintain the present prohibition on the use of health professionals in TV advertisements for products that have nutritional, therapeutic or prophylactic effects and in radio advertisements for treatments? If your answer is no, please explain why.

No, it is disagreed that the broad restriction on the use of health professionals in advertisements should be removed or relaxed. This would take advantage of the public trust in health professionals that it perceives to be objective and independent of commercial influence. It is very important that health professionals do not endorse products, as this could compromise their integrity and lead to a lowering of public opinion of medical staff.

ii) Given BCAP’s policy consideration, do you agree that rules 11.6, 11.7 and 11.8 should be included in the proposed BCAP Code? If your answer is no, please explain why.

No, for the reasons specified in our answer to 61 i) above.

Family planning centres

Question 62

i) Given BCAP’s policy consideration, do you agree that it is necessary to maintain a rule specific to post-conception advice services and to regulate advertisements for pre-conception advice services through the general rules only?

We strongly oppose advertisement of pre-conception and post-conception advice services on TV and radio. Instead, we recommend listing such advertising in section 10 of the proposed BCAP code as prohibited categories. The prohibition for TV and radio should refer to all pre-conception and post-conception services, including abortion and the morning after pill. The prohibition should also reverse current law by banning the advertising of condoms.

The context, medium and impact of TV are highly different to that of radio. The radio code is restricted in rule 3.6 (c) to family planning centres approved by the Local Health Authority, the Central Office or other approved NHS body. Adverts on abortion should be prohibited on both radio and TV at any time, whether commercial or not. Pre-conception and post-conception services should be accessed by medical referral only.

The vulnerability of the young audience, and the recognised potential for mental disorders following abortion, argue strongly against the appropriateness of advertising for such services— especially in short commercial TV adverts.

Short commercial adverts cannot adequately address the serious mental health implications of abortion. In the UK, profits derived from commercial pandering should never come at the expense of a woman's health.

Mounting concern exists over the number of repeat abortions amongst teenagers. The proposed adverts add to these concerns.

<http://www.dailymail.co.uk/health/article-1127083/Repeat-abortion-teenage-girls-risen-70.html>

<http://www.dailymail.co.uk/health/article-1131543/Teenage-girls-having-repeat-abortion-rise-experts-warn.html>

<http://www.sundaymercury.net/news/midlands-news/2009/03/08/wolverhampton-and-solihull-teens-having-highest-repeat-abortion-66331-23090333/>

Profit-motivated advertising, even more than GP abortion advice, properly alarms parents and guardians. This is an especially serious issue for those parents and children who live by sincerely held religious tenets. So much so that allowing such abhorrent adverts will likely lead such families to cease watching TV.

Commercial pandering of abortion services presents abortion in a trivial demeaning way, treating the disposal of life as another consumer product.

Nearly 200,000 abortions occur each year in the UK. A nation purporting to support good governance principles ought not specifically intend to increase that number through Advertising Standards Authority's sanctioned abortion advertising.

Only the abortion industry possesses the financial resources to advance their profit-motivated political agenda through Advertising Standards Authority's sanctioned advertising. Pro-life women's groups and other organisations supporting life in vitro are thus unfairly excluded from this forum of the political process. The abortion industry wants to change the law and extend abortion to Northern Ireland where it is illegal. Advertising abortion in the rest of the UK will help them achieve this.

The proposal breaches the BCAP rules in the current code as well as section 7 of the proposed code on the advertising of political and controversial matters (given the broad definition of "political," in those places).

The Prime Minister recently responded to a petition on not extending abortion to Northern Ireland saying that such matters are best dealt with by the Northern Ireland Assembly. Advertising of abortion services there is, therefore, inappropriate.

<http://www.number10.gov.uk/Page19063>

Pages 90 to 91 of the BCAP consultation, to which this question refers, argues a need exists to balance the protection afforded by those restrictions and the right of all categories of family planning centres to advertise their services. The balance in this case should be clearly on the side of protecting human life.

Abortion advertisements also discriminate against those holding sincerely held religious views on abortion. Such advertisements deeply offend pro-life women, parents, and others with pro-life opinions, (whether or not these opinions are informed by sacred tenets).

ii) Given BCAP's policy consideration, do you agree that rule 11.11 should be included in the proposed BCAP Code? If your answer is no, please explain why.

We strongly oppose including abortion advertisements on TV and radio. We therefore oppose inclusion of rule 11.11 in the BCAP Code. As stated in our answer to 62 i) the advertising at issue here belongs in section 10 of the Code as a prohibition.

We are concerned that the consultation unilaterally takes a pro-abortion viewpoint, lacking any impartiality on this highly political issue.

An unequal playing field is being created in rule 11.11 as pro-life organisations will have to declare if they do not support abortion but pro-abortion organisations will not have to declare that they do not support a woman's pregnancy continuing.

It is important for women to make a decision on whether or not to continue a pregnancy on an informed consent basis. The Royal College of Psychiatrists "recognises that good practice in relation to abortion will include informed consent. Consent cannot be informed without the provision of adequate and appropriate information regarding the possible risks and benefits to physical and mental health."

<http://www.rcpsych.ac.uk/member/currentissues/mentalhealthandabortion.aspx>

There are clear attempts to prohibit pro-life advertisements as a result of extra rules being proposed for religious organisations, charities and non-medical volunteers. The rules proposed could only be passed by pro-abortion clinics.

Point 4.8. on page 39 of this consultation refers to the need to take account of the Communication Act and the Broadcasting Acts. The overarching principle here is that advertisements must not harm or cause serious or widespread offence to the audience. Abortion advertising would cause serious and widespread offence to UK citizens holding sincerely held religious beliefs on abortion.

Hypnosis-based procedures (including techniques commonly referred to as hypnotherapy), psychiatry, psychology, psychoanalysis or psychotherapy

Question 63

Given BCAP's policy consideration, do you agree that rule 11.10, supported by rule 11.9, should be included in the proposed BCAP Code? If your answer is no, please explain why.

No, the advertisements in hypnosis-based procedures (including techniques commonly referred to as hypnotherapy), psychiatry, psychology, psychoanalysis or psychotherapy were seen as unacceptable products and services and should continue to be seen in that way. These types of advertising may exploit the vulnerable and mentally ill. Such services should be assessed by medical referral only.

Remote personalised advice

Question 64

i) Do you think the additional requirement, that advice must be given in accordance with relevant professional codes of conduct should be extended to TV, in rule 11.13? If your answer is no, please explain why.

No, please see our answer to question 59.

Radio: sales promotions in medicine advertisements

Question 65

Given BCAP's policy consideration, do you agree with BCAP's proposal to delete radio rule 3.4.28? If your answer is no, please explain why.

No, because the general rule BCAP advertisements must be prepared with a sense of responsibility to the audience and to society is not specific enough to ensure that harmful or controversial medicines are not used in an inappropriate way. Instead the radio rule should be extended to TV.

Anti-drugs and anti-AIDS messages

Question 66

Given BCAP's policy consideration, do you agree with BCAP's proposal to delete the radio rule on anti-AIDS and anti-drugs messages from BCAP's proposed Code? If your answer is no, please explain why.

No, anti-drugs and anti-aids messages need to be treated with great sensitivity. The radio rule should be extended to TV to ensure that special care is extended to TV adverts. The TV rules should ensure that special care is taken not only in scheduling but also in relation to religious sensitivities. We are concerned to see cures for Aids and it should be prevented but it is important that adverts are not seen to encourage or condone the practice of homosexuality and have proper regard to many of the world's religions including Biblical beliefs that the practice of homosexuality is a sin.

Other questions

Question 67

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Medicines, Medical Devices, Treatments and Health Section are necessary and easily understandable? If your answer is no, please explain why.

No, because inappropriate rules are in this section. Please see our answer to ii).

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Medicines, Medical Devices, Treatments and Health rules that are likely to amount to a significant change in advertising policy and practice and are not reflected here and that should be retained or otherwise be given dedicated consideration?

Rule 11.11 should not be in this section and all pre-conception and post-conception advice services and medicines should be in section 10 as prohibited categories for both radio and television. This includes condoms, abortion services and the morning after pill (whether or not a prescription drug). Please see our answer to question 62.

iii) Do you have other comments on this section?

Yes, there is a need to place services including clinics, establishments and the like offering advice on, or treatment in, medical, personal or other health matters firmly in the prohibited section of the Code and not be allowed in section 11 or section 26 of the proposed new Code. These type of advertisements should continue to be prohibited to protect the young and vulnerable.

Section 15: Faith, Religion and Equivalent Systems of Belief

Spiritual benefit in return for donations to the advertised cause

Question 90

Given BCAP's policy consideration, do you agree that 15.11, which presently applies to radio advertisements by or that refer to charitable faith-based bodies and that appeal for funds, should also cover those TV advertisements? If your

answer is no, please explain why.

Part of Rule

15.11

Advertisements must not imply that respondents will receive spiritual benefits in return for a donation.

No, we disagree that this rule should apply to TV or be extended to radio. There are sacred doctrinal texts which support tithing of monies and God's blessing as a result. The principle d. in the proposed code which refers to preventing potentially harmful advertisements from exploiting their audience already covers this.

Unreasonable pressure to join or participate or not opt-out

Question 91

Given BCAP's policy consideration, do you agree that 15.2.3 should apply to radio as it presently does to TV? If your answer is no, please explain why.

No, the rule for both TV and radio should be removed as the general principle in d in the proposed code in this section already covers this.

Advertisements for charitable purposes that include recruitment or evangelism

Question 92

Given BCAP's policy consideration, do you agree that faith advertisements, which appeal for funds for charitable purposes that include or will be accompanied by recruitment or evangelism, are acceptable if that information is made clear in the advertisement? If your answer is no, please explain why.

Part of Rule 15.11

Advertisements must not appeal for funds, except for charitable purposes. If the charitable purpose includes or will be accompanied by recruitment or evangelism, the advertisement must make that clear.

No, the present radio code does not include that restriction. The rule should not apply to either radio or TV because principle d already covers this.

It is of concern that this restriction on fund raising has not taken account of the many different types of organisations which may nowadays be beneficial but are not necessarily charities. The strategic government report in 2002 called *Private Action Public Benefit* recognised that there were a range of forms of not for profit organisations. This can include social enterprise companies as well as other forms of non-profit organisations. The rules for radio and TV appear to be out of touch with these changes and the BCAP rules on charities do not recognise the different types of religious organisations. This is an additional reason why such rules should be removed. Christianity sees proselytism as one of the central parts of our faith. The great commission from Jesus Christ was to go and make disciples of all nations. The charity case law definition of the advancement of religion includes proselytism so that there is absolutely no reason why there should be any special safeguarding rules on donations for proselytism. The charitable head for religious organisations in charity law is the advancement of religion and it is clear that proselytism is part of that advancement.

<http://www.charity-commission.gov.uk/spr/corl.asp>

<http://www.cabinetoffice.gov.uk/media/cabinetoffice/strategy/assets/strat%20data.pdf>

Use in advertisements of sacred or religious music and acts of worship or prayer

Question 93

Given BCAP's policy consideration, do you agree that present radio rules 3.10 and 3.11, of section 3, need not be included in the proposed Code? If your answer is no, please explain why.

No, the rule from radio should extend to television as the general rule of not causing serious or widespread offence against generally accepted moral, social or cultural standards does not have any specific mention of sensitivities to the use of religious music which radio rules 3.10 and 3.11 do.

Involving viewers in services or ceremonies

Question 94

Given BCAP's policy consideration, do you agree that present TV rule 10.9 need not be included in the Code? If your answer is no, please explain why.

Rule 10.9 states that doctrinal advertisements must not appear to involve viewers in services or ceremonies

Yes, it is agreed that rule 10.9 does not need to be included as the Code's general rule on the need for advertisements to be prepared with a sense of responsibility to the audience and society is sufficient.

Individual experiences or personal benefits associated with a doctrine

Question 95

Given BCAP's policy consideration, do you agree that present TV rule 10.10 should not be included in the Code? If your answer is no, please explain why.

Rule 10.10 states that testimonials and references to individual experiences or personal benefits associated with doctrine are not acceptable.

Yes, it is agreed that this rule 10.10 is not needed and could be covered by other rules in the Code

Counselling

Question 96

i) Given BCAP's policy consideration, do you agree that present TV rule 10.11 should not be included in the Code? If your answer is no, please explain why.

Yes.

ii) Given BCAP's policy consideration, do you agree that 15.13 should be

included in the Code? If your answer is no, please explain why.

Rule 15.13

Advertisements must not claim that faith healing, miracle working or faith based counselling can treat cure or alleviate physical or mental health problems; they may, however make restrained and proportionate claims that such services can benefit emotional or spiritual wellbeing

No, rule 15.13 should not be included in the code. The general code rules adequately cover such matters to ensure that adverts are made with a sense of responsibility. There are no specific rules for secular counselling and to have specific restrictions for religious counselling creates an unlevel playing field.

Advertisements for products related to psychic or occult phenomena

Question 97

Given BCAP's policy consideration, do you agree to maintain the existing TV and radio requirements on advertisements for products or services concerned with the occult or psychic practices? If your answer is no, please explain why.

No, the rules should prohibit these products and services without exceptions on the grounds of the need for advertisements to protect those under 18 and to prevent harmful advertising. The rules for both TV and radio should simply state that advertisements must not promote psychic practices or practices related to the occult without exceptions.

Other questions

Question 98

i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on Faith, Religion and Equivalent Systems of Belief are necessary and easily understandable? If your answer is no, please explain why?

No, we see no reason why it is necessary for the rules for Faith and Religion to

also refer to the Political section of the code. We particularly disagree that there should be any reference to political as religious beliefs should be interpreted as arising from a religious moral not political motivation, apart from in exceptional cases. The reference to the Charities section is also outdated in view of the many different types of not-for-profit organisations which may also be religious organisations. Another hurdle which may be unnecessary is that radio central copy clearance is also required for all religious advertisements.

We consider that many of the areas in this section are sufficiently covered within the general Code rules and this section is largely unnecessary. For example, the first paragraph of page 269 of in this section of rule 15.7 provides unnecessarily detailed rules on doctrines or beliefs which should be deleted. The current radio rule which simply states that advertisements may expound doctrines or beliefs if they are presented as the advertiser's opinion should be extended to TV.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed rules that are likely to amount to a significant change in advertising policy and practice and are not reflected here and that should be retained or otherwise be given dedicated consideration?

The current code makes it clear that the BCAP/ASA or OFCOM should not make subjective judgments about faith values. The proposed code does not include this important point. Instead the proposed rule 15.9. states that religious advertisers must not present the advertiser's beliefs as the "one" or "true" faith. This directly challenges Christian beliefs that Jesus is the way, the truth and the life. There should be nothing wrong with an advertiser saying that this is the Christian belief.

iii) Do you have other comments on this section?

In our opinion many of the rules in this Faith and Religion section are unnecessary. For example, the elaborate proposed rule 15.14 should be deleted. The general Code rules are sufficient.

Section 16: Charities

Requirement to identify charities

Question 99

Given BCAP's policy consideration, do you agree that it is proportionate to replace the requirement for advertisements that include reference to a charity to include, in that advertisement, a list of charities that may benefit from donations with proposed rule 16.5.2? If your answer is no, please explain why.

Yes.

Medicine advertisements and donations to charities

Question 100

i) Given BCAP's policy consideration, do you agree that the present TV and radio prohibitions on charity-based promotions in medicine advertisements should be deleted? If your answer is no, please explain why.

No, because medical products which are controversial and morally questionable may aim for public opinion credibility by stating their product makes a certain percentage donation to charity.

We strongly oppose the recent introduction of the advertising of the morning after pill **before** this consultation and also oppose condoms being advertised as outlined in our answer to questions 62 and 147. These are the type of products which could exploit such rule changes and thereby endeavour to gain public support by making percentage donations to other charities on the purchase of such products.

ii) Given BCAP's policy consideration, do you agree that 16.7 should be included in the new code? If your answer is no, please explain why.

No, rule 16.7 should not be included in the Code for the reasons explained in answer to question i) above. In addition the purchase of medicine should be for just medical usage and it would be irresponsible to encourage purchases for other reasons.

Complying with Data Protection Legislation

Question I01

Given BCAP's policy consideration, do you agree that it is not necessary to require a broadcaster to obtain an assurance that the advertiser will not disclose data to a third party without the client's consent, and the client's name will be promptly deleted on request? If your answer is no, please explain why.

Yes.

Comparisons with other charities

Question I02

Given BCAP's policy consideration, do you agree that the present TV and radio prohibitions on comparisons in charity advertisements should be deleted? If your answer is no, please explain why.

Yes.

The right of refund for credit or debit card donations of £50 or more

Question I03

Given BCAP's policy consideration, do you agree that the present radio rule, 3.2.4, should be deleted? If your answer is no, please explain why.

Yes.

Other questions

Question I04

i) Taking into account BCAP's general policy objectives, do you agree that

BCAP's rules included in the proposed Charities Section are necessary and easily understandable? If your answer is no, please explain why.

No, there are some rules which are not needed. Charities link to other sections and like the religious section should not do so. The rules on charities are over-elaborate and in many ways unnecessary as provisions within the general code provide sufficient protection. As stated in our answer to question 92 there are many different types of non-profit organisations which may wish to legitimately advertise to raise funds. There are a number of religious organisations which are no longer charities but are non-profit making companies with religious aims who should not be prohibited from fund raising. Linking this section with the political section of this Code is inappropriate. It may also be inappropriate to link this with religious organisations as not all religious organisations are charities. However, the Charity Commission guidance has a positive approach to campaigning issues by charities as outlined in their CC9 guidance on speaking out and the BCAP rules need updating.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Charities rules that are likely to amount to a significant change in advertising policy and practice, are not reflected here and should be retained or otherwise be given dedicated consideration?

iii) Do you have other comments on this section?

The current and proposed rules are far too restrictive. There should be no automatic assumption that the actions of Charities, non-profit organisations or religious organisations are political. In fact the Charity Commission publications have been more geared to ensuring the freedom of charities to campaign.

See CC9 - Speaking Out - Guidance on Campaigning and Political Activity by Charities

<http://www.charity-commission.gov.uk/publications/CC9.asp>

Section 17: Gambling

Consistency; principle

Question I05

Given BCAP's policy consideration, do you agree in principle that National Lottery and SLA lottery broadcast advertisements should be regulated by the same rules? If your answer is no, please explain why.

No, as it is unclear in the text to this question what the changes are and it sounds as if this would lead to a relaxation of the gambling rules.

Consistency; age of appeal of content

Question I06

Given BCAP's policy consideration, especially the requirement for consistency in regulation, do you agree it is proportionate to increase the restriction on age of appeal for broadcast National Lottery advertisements from 16+ to 18+? If your answer is no, please explain why.

Yes.

Consistency; age at which a person may be featured gambling in a lottery advertisement

Question I07

Given BCAP's policy consideration, especially the requirement for consistency in regulation, do you agree it is proportionate to apply rules 18.6 and 18.7 to all broadcast lottery advertisements? If your answer is no, please explain why.

Yes, to rule 18.6 but no to rule 18.7. Rule 18.7 exploits the advertising of children as beneficiaries of lottery funds.

Consistency; other lottery rules

Question I08

Given BCAP's policy consideration, do you agree that the rules included in the Lottery Section of the Code are in line with BCAP's general policy objectives (see Part I (4) of this consultation document) and should be applied to

broadcast advertisements for the National Lottery as they presently are to broadcast advertisements for other lotteries? If your answer is no, please explain why and, if relevant, please identify those rules that should not be applied to advertisements for the National Lottery.

No, please see our answer to question 105. We oppose any relaxation of the rules.

Participating in a lottery in a working environment

Question 109

Given BCAP's policy consideration, do you agree that lottery advertisements should be able to feature participation in a lottery in a working environment? If your answer is no, please explain why.

No, as SLA lotteries are different and national lotteries are unique and may appeal to people who otherwise would not gamble.

Other questions

Question 110

i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on Gambling and Lotteries are necessary and easily understandable? If your answer is no, please explain why?

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed rules that are likely to amount to a significant change in advertising policy and practice and are not reflected here and that should be retained or otherwise be given dedicated consideration?

iii) Do you have other comments on this section?

Yes, it is important to ensure that there is no relaxation of the rules in order to protect the under 18s and the vulnerable from gambling addiction.

Section 19: Alcohol

Sales promotions in alcohol advertisements

Question 111

Given BCAP's policy consideration, do you agree that rule 19.11 should be included in the proposed BCAP Code? If your answer is no, please explain why.

No, the current radio rule section 3, 11.5 should be extended to TV as rule 19.11 is not as stringently worded.

Irresponsible handling of alcohol

Question 112

Given BCAP's policy consideration, do you agree that rule 19.12 should be included in the proposed BCAP Code? If your answer is no, please explain why.

No, the current TV rule 11.8.1. (g) is clearer.

Alcoholic strength

Question 113

Given BCAP's policy consideration, do you agree that rule 19.10 should be included in the proposed BCAP Code? If your answer is 'no', please explain why.

Yes.

Alcohol in a working environment

Question 114

Given BCAP's policy consideration, do you agree that rule 19.14 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Alcohol should not be advertised in a working environment and the word “normally” should be deleted from this rule’s wording. There are health and safety reasons for not encouraging the drinking of alcohol at work as well as the potential for this to result in dismissal.

Exception for children featuring incidentally in alcohol advertisements

Question 115

Given BCAP’s policy consideration, do you agree that rule 19.17 should be included in the proposed BCAP Code? If your answer is no, please explain why.

No, the current TV rule should be kept, this rule on not having children in alcohol advertisements must be maintained and the Code should not be weakened.

Low alcohol exceptions

Question 116

i) Given BCAP’s policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that requires anyone associated with drinking must be, and seem to be, at least 25 years old? If your answer is no, please explain why.

Yes.

ii) Given BCAP’s policy consideration, do you agree that it is wrong to exempt television advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.

Yes.

Question 117

i) Given BCAP’s policy consideration, do you agree that it is wrong to exempt

radio advertisements for low alcohol drinks from the rule that prevents implying or encouraging immoderate drinking, including an exemption on buying a round of drinks? If your answer is no, please explain why.

Yes.

ii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents encouraging excessive consumption via sales promotions? If your answer is no, please explain why.

Yes.

iii) Given BCAP's policy consideration, do you agree that it is wrong to exempt radio advertisements for low alcohol drinks from the rule that prevents featuring a voiceover of anyone who is or appears to be 24 or under? If your answer is no, please explain why.

Yes.

Other questions

Question 118

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Alcohol section are necessary and easily understandable? If your answer is no, please explain why.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Alcohol section that are likely to amount to a significant change in advertising policy and practice, are not reflected here and should be retained or otherwise be given dedicated consideration?

iii) Do you have other comments on this section?

The rules in this section appear to be weakened and strengthened in different areas. It is important that standards are maintained and strengthened to

protect the under 18s. We agree with making the rules more stringent but in our opinion there should be an outright ban of alcohol advertising. Please see our answer to question 158.

Promiscuity

Question 137

Given BCAP's policy consideration, do you agree the proposed BCAP Code provides adequate protection from the potential for harm or offence from advertisements that encourage or condone promiscuity? If your answer is no, please explain why.

No, it is important that the current code rules for radio and television are maintained. The consultation itself in the text on question 147 on condoms refers to the problem of rising sexually transmitted diseases and advertisements should not encourage promiscuity.

Misleading

Question 138

Given BCAP's policy consideration, do you agree it is not necessary to carry over radio rules 3.14 (a) and (d) into the proposed BCAP Code? If your answer is no, please explain why.

No, the current rules should be kept to ensure businesses that advertise conduct their businesses responsibly.

Location or telephone number

Question 139

Given BCAP's policy consideration, do you agree it is not necessary to carry over radio rule 3.14 (b) into the proposed BCAP Code? If your answer is no, please explain why.

No, for customer consumer protection.

Section 31: Other Categories of Radio Advertisements that Require Central Copy Clearance

18+ rated computer or console games

Question 142

Given BCAP's policy consideration, do you agree that 31.1.4 should be included in the Code? If your answer is no, please explain why.

No in our opinion films, DVDs ,videos ,computer and console games that have an 18 plus certificate or rating should not be advertised on TV or radio due to the need to protect the under 18s and should be in the prohibited section. Please see our answer to question 54.

Section 32: Scheduling

Computer and console games

Question 143

Given BCAP's policy consideration, do you agree that proposed rules 32.5.4 and 32.20.5 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Rule 32.5.4. covers scheduling or time restrictions for the under 16s for computer or console games carrying an 18+, 16+ and 15+. This is clearly not age appropriate. In our opinion, in view of concerns over the harmful effect of such video games, only 12+ should be advertised on radio and TV. The other games, films or DVDs should be prohibited. The 12+ rating should be scheduled and timed for the under 16s.

Yes to rule 32.20.5 as this rule protects children but this rule should extend to the 12+ category in view of the recommendations of the Byron review to make

these categories have a statutory rating for the greater protection of children.

The Home Affairs Knife Crime Parliamentary Committee recently concluded that:

“Evidence to our inquiry supported our view that violent DVDs and video games exert a negative influence on those who watch and play them. Watching or playing such media contributes around 10% of any person's predisposition to be violent. Of particular concern is their influence on individuals who are already predisposed to violence because they grew up in a violent environment. (Paragraph 88)”

<http://www.publications.parliament.uk/pa/cm200809/cmselect/cmhaff/112/11212.htm>

Betting tipsters

Question 144

Given BCAP's policy consideration, do you agree that proposed rules 32.2.3 and 32.20.4 should be included in the proposed BCAP Code? If your answer is no, please explain why.

No, we disagree with any relaxation of the rules. Betting tipsters should remain as a prohibited category to protect the under 18s, scheduling will not provide that protection.

Live premium-rate services

Question 145

Given BCAP's policy consideration, do you agree that proposed rules 32.2.6 and 32.20.8 should be included in the proposed BCAP Code? If your answer is no, please explain why.

No, rule 32.2. is all that is required to ensure appropriate scheduling for the under 18s. There should be no Phone Pay Plus exceptions which allow for the targeting of people under 18. Parents normally pay such bills not children.

Restrictions around children's programmes

Question 146

Given BCAP's policy consideration, do you agree with BCAP's proposal to extend the restriction on advertisements for low alcohol drinks, medicines, vitamins and other dietary supplements from around programmes made for children to programmes of particular appeal to audiences below the age of 16? If your answer is no, please explain why.

Yes.

Condoms

Question 147: Condoms

Do you agree that television advertisements for condoms should be relaxed from its present restriction and not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to children below the age of 10? If your answer is no, please explain why.

- No. We do not agree. Condom adverts for both radio and TV should instead be in section 10 of the Code as a prohibited category.
- It is highly irresponsible of the BCAP code to promote sex amongst young children by advertising condoms. It is a myth that Condoms prevent STDs as it is possible to spread STDs by sexual contact. For example, "Genital warts are not easily prevented from being passed on to a sexual partner even if condoms are used." "Condoms may help protect against genital herpes, although their effectiveness is unclear as the virus is present on the skin, and the condom only covers the penis so it can't offer complete protection." Hence abstinence is the best prevention policy.
<http://www.ssha.info/public/faqs/index.asp#16>
<http://www.bbc.co.uk/switch/slink/features/horror.shtml>
- The listed ages of protected children under Sexual Offences Act 2003 suggest that the BCAP code is inconsistent with current law detailing sexual offences of children under 13 and under 16.
http://www.opsi.gov.uk/acts/acts2003/ukpga_20030042_en_2#pt1-pb4

BCAP sends the wrong message with its condom advertising proposal here. Encouraging young underage children to engage in sex encourages casual sex, and increases teenage pregnancy.

- The proposal further undermines parental, responsibility for the welfare of their own children.

Sensational newspapers/magazines/websites

Question I 48

Given BCAP's policy consideration, do you agree that it is proportionate to require that special care be taken when scheduling advertisements for sensational newspapers, magazines, websites (or their content)? If your answer is no, please explain why.

No instead the current radio rule should be extended to TV so that advertisements for sensational newspapers, magazines, websites (or their content) must not be broadcast in or around programming/features aimed particularly at those aged 18 years or around religious programming. It is important there is no relaxation of the rules to protect children and religious sensitivities.

TV Text and interactive advertisements

Question I 49

Given BCAP's policy consideration, do you agree that the same rules on placement of advertisements should apply to broadcast advertisements behind the red button as to TV Text advertisements?

No because again this seems a lowering of standards and a relaxation of rules.

Liqueur chocolates

Question I 50

Given BCAP's policy consideration, do you agree that the restriction on advertisements for liqueur chocolates is no longer required, given the restriction on HFSS foods around programmes of particular appeal to under 16s? If your answer is no, please explain why.

Yes.

Charities

Question 151

Given BCAP's policy consideration, do you agree that it is no longer necessary to restrict advertisements for charities from appearing adjacent to any appeal or community service announcement transmitted in programme time? If your answer is no, please explain why.

Yes.

Programmes featuring advertisements

Question 152

Given BCAP's policy consideration, do you agree that it is proportionate to delete the requirement that advertisements for products and services that feature in advertisement compilation programmes should not appear in or adjacent to those programmes? If your answer is no, please explain why.

No there is a need to properly maintain boundaries between programmes and advertisements.

Detailed advertisements for gambling; Code for Text Services

Question 153

Given BCAP's policy consideration, do you agree that it is no longer necessary to restrict detailed TV text advertisements for gambling to full advertising pages devoted solely to such advertisements? If your answer is no, please explain why.

No, it is still important that gambling advertisements are kept separate from editorial content to protect the young and vulnerable.

Artist separation

Question 154

Given BCAP's policy consideration, do you agree that it is no longer necessary to maintain 'the artist separation rule'? If your answer is no, please explain why.

No, because this rule should be maintained to protect both the young and vulnerable. The proposal is just to delete the rule without any substitute rules for child protection. On balance it would be best to maintain this rule to avoid confusion between programmes and advertising, so that a well known performer is not in a programme and then in an advertisement adjacent to that programme.

Exclusion of certain types of advertisement in or adjacent to broadcasts of Parliamentary proceedings

Question 155

Given BCAP's policy consideration and the view of the Parliamentary authorities, do you agree that it is suitable to maintain rule 32.14 in the proposed BCAP Code? If your answer is no, please explain why.

Yes.

Other Questions

Question 156

i) Taking into account BCAP's general policy objectives, do you agree that BCAP's rules, included in the proposed Scheduling Section are necessary and easily understandable? If your answer is no, please explain why?

Whilst scheduling may help to avoid inappropriate advertisements, it is far more important to consider the need for outright bans which properly protect the young and vulnerable. Many teenagers have their own TVs and the watershed of 9pm appears to be out of date. This should be increased to 10pm or even 11pm at night. Further research needs to be undertaken on scheduling

by seeing what time young people do actually watch TV or listen to the radio in relation to different age categories. It is doubtful how much protection is provided by scheduling and much more emphasis needs to be placed on extending, not relaxing, advertising prohibitions to provide proper protection.

Radio scheduling includes special care on scheduling of family planning products but TV has no rules. All pre- conception and post-conception advice services and products should be banned. Condom advertising before 9pm and 7pm for channel 4 is totally inappropriate and should be a prohibited category as should the morning after pill.

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Scheduling rules that are likely to amount to a significant change in advertising policy and practice and are not reflected here and that should be retained or otherwise be given dedicated consideration?

iii) Do you have other comments on this section?

No see answer to i)

Section 33: Other comments

Question 157

Do you have other comments or observations on BCAP's proposed Code that you would like BCAP to take into account in its evaluation of consultation responses?

Yes , please see our Executive summary.

The following question was issued as an addendum on 29 May 2009. The closing date for responses to this question is 10 July 2009. The full text of the addendum can be found [here](#).

Question 158

Given BCAP's policy consideration, do you agree that the evidence contained in the ScHARR Review does not merit a change to BCAP's alcohol advertising

content or scheduling rules? If your answer is no, please explain why you consider the SchARR Review does merit a change to BCAP's alcohol advertising content or scheduling rules.

No, it does merit a change. Real health concerns about binge drinking for teenagers exist. An outright ban on such advertisements would be appropriate. There should also be public health messages on the dangers of drinking. We note with concern that in answering the alcohol questions in this consultation that there were instances where there was even a weakening of the current code.

<http://www.dailymail.co.uk/news/article-1165002/British-teenagers-binge-drinking-champions-Europe.html>