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Advertising gambling in Great Britain



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The advertising of gambling products (including, in some cases, 'play for free' games) is tightly regulated in Great Britain. Advertisers will need to be aware of the diverse restrictions that apply to them, including those that govern when, where and how they can advertise their products.

When advertising gambling in Great Britain, whether in traditional media or online, advertisers must comply with the following:

The Gambling Act 2005 and Gambling (Licensing and Advertising) Act 2014

- With the limited exception of operators who block access to users in Great Britain, all those who advertise facilities for remote gambling in Great Britain (regardless of where they themselves are located) must hold a Gambling Commission licence and must comply with the licence conditions attached to those licences.
- In relation to the advertising of non-remote facilities, if those facilities are in Great Britain, the operator must hold an operating licence and comply with the relevant licence conditions. If the non-remote facilities are located outside Great Britain, however, those facilities can be advertised without a licence.
- The Gambling Act prohibits the advertising of unlawful gambling and those who advertise unlicensed facilities will commit a criminal offence.

The conditions of any Gambling Commission licence they hold

- Amongst other things, the licence terms require that:
 - licensees market in a socially responsible manner and comply with the codes of the Committee of Advertising Practice (CAP) and Broadcast Committee of Advertising Practice (BCAP);
 - licensees ensure all significant conditions of marketing incentives are set out within relevant adverts (save where significantly limited by time and/or space – for online advertising, significant conditions must be one click away);
 - they do not place adverts on websites that provide unauthorised access to copyrighted content; and
 - they cease sending marketing communications to players that have self-excluded as soon as reasonably practicable after they have entered into a self-exclusion arrangement.

The CAP Code or the BCAP Code

- The CAP and BCAP Codes apply equally to 'play for money' games and 'play for free' gambling products that offer the chance to win a prize or explicitly or implicitly direct the consumer to a 'play for money' product.
- The CAP Code covers non-broadcast advertisements, sales promotions and direct marketing communications (including those on advertisers' own websites and on social media). The gambling section can be found [here](#). Advertisers will also need to comply with the general sections of the code.
- Amongst other things, the CAP Code requires that:
 - advertising is socially responsible and that regard is given to the need to protect children, young people and other vulnerable people whose susceptibilities, aspirations, credulity, inexperience or lack of knowledge should not be exploited;
 - socially irresponsible, anti-social or criminal behaviour is not condoned and cultural beliefs or traditions about luck are not exploited;
 - gambling is not portrayed as an escape, as a priority in life or as a means to solving financial problems;
 - no suggestion is made that gambling can enhance an individual personally or socially nor that gambling is a rite of passage;
 - solitary gambling is not encouraged in preference to social gambling and that gambling in a work environment is not shown or condoned; and
 - (with few exceptions) advertising is not directed at those below 18 and that no one who is, or who appears to be, under 25 is featured in a gambling context. Adverts should not be designed to be of particular appeal to young people.
- The BCAP Code applies to broadcast advertising and has largely similar rules to those found in the CAP Code. The gambling section can be found [here](#). Advertisers will also need to comply with the general sections of the code.

The Gambling Industry Code for Socially Responsible Advertising

- The Gambling Industry Code re-emphasises some of the provisions of the CAP and BCAP Codes. In addition to this, the Code requires that:
 - social responsibility messaging appears in all broadcast media and, where it is practicable to do so, in all other forms of advertising;
 - except in limited circumstances, where it is feasible, practical and necessary, all print and broadcast gambling advertising should contain a clearly legible reference to the gambling advice website www.begambleaware.org (with a requirement for this to remain onscreen for 10% of the length of any television adverts);
 - generally gambling products may not be advertised on television before the watershed of 9pm, save for sports betting around televised broadcasts of live sports events (but not during the period running from five minutes before the event begins, until five minutes afterwards, including breaks in play);
 - where pre-watershed advertising is allowed, advertising of sign up offers targeted at new customers and advertising making reference to other gambling products that would not normally qualify for pre-9pm exemption are prohibited;
 - gambling operators ensure that their logos and other promotional materials do not appear on merchandising designed for use by children (e.g. football shirts);
 - print and television adverts for gambling products include either a '18+' symbol or a 'no under 18s' type message (other than lotteries for which 'no under 16s' messaging should appear); and
 - account profiles for operators' branded websites on social media include '18+' messaging and reference to www.begambleaware.org, and corporate websites include responsible gambling messaging.

The Consumer Protection from Unfair Trading Regulations 2008

- These Regulations impose a requirement on marketers not to treat customers unfairly or to mislead them or to engage in aggressive commercial practices. Certain

practices are prohibited, including claiming that something is free when it is not.

Data Protection Law

- In addition to the above it is also important to consider the requirements of the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) when targeting advertising, and the Privacy and Electronic Communications (EC Directive) Regulations 2003 in respect of marketing consents.

Where to find the rules

[Licence Conditions and Codes of Practice](#)

[The Gambling Industry Code](#)

[CAP Code - gambling section](#)

[BCAP Code - gambling section](#)

[CAP and BCAP Guidance on the rules of gambling advertisements.](#)

What are the risks?

Advertisers should be aware that failure to comply with the above requirements will not only expose them to sanctions by individual regulators, along with consequent negative PR risks, but may impact on their ability to renew any Gambling Commission licences they may hold.

The Advertising Standards Authority

The ASA is the UK's regulator of advertising and responsible for enforcement of failures to comply with applicable advertising regulations. The ASA frequently upholds complaints raised against gambling operators. Details of their rulings can be found here, which serve as a useful guide to their interpretation of the advertising codes. Possibly the most common breach is that free bet or bonus promotions are found to be misleading due to the omission of material information.

Typically, rulings against advertisers result in adverts being prohibited from appearing again in their current form.

The Gambling Commission

As compliance with advertising codes is a requirement of all gambling licences, the Gambling Commission may also take action against licensees that fail to comply. Previously this has led the Commission to exercise its right to undertake licence reviews, leading to voluntary settlements or fines. The Commission does, however, also have the power to revoke, and attach special conditions to, licences.

The above is intended as an introduction to advertising gambling in Great Britain and should not be relied upon as legal advice. For more information or advice on advertising gambling in Great Britain contact a member of the CMS Gambling Group.



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