

Consultation: Post conception advisory services (PCAS)

| Evaluation Table | | | |
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| CONSULTATION QUESTION: Do you consider that the proposals taken as a whole including the new rule 11.x constitute proportionate measures to balance the freedom of legally available family planning services to advertise with the need to provide women with appropriate information to make informed choices about options available in cases of unplanned pregnancy and to provide adequate protection for vulnerable people? | | | |
| | Respondent making points in favour of the proposal: | Summary of significant points: | BCAP's evaluation: |
| 1 | Abortion Rights | <p>Abortion Rights support the introduction of the Rule [11.x]. It is vital that all patients are able to make free and informed decisions about accessing medical care. A requirement as per [11.x] to state clearly in advertising where abortion referral is not a part of the offered service is likely to enable women to more clearly judge what advertisers are offering.</p> <p>Clarity in advertising is particularly needed where medical services need to be accessed within a limited time. We welcome BCAP's recognition of the strong public health grounds for introducing Rule [11.x], particularly awareness of the medical evidence suggesting that the earlier in pregnancy a termination is performed the lower the risk of complications.</p> <p>We welcome BCAP's commitment to follow through on the recommendations of the Report of the House of Commons Science and Technology Committee on the Scientific Developments Relating to the Abortion Act 1967, namely:</p> <p style="padding-left: 40px;">'to ensure that no patients are misled, we ... recommend that the Government consider ways of ensuring that all those claiming to offer pregnancy counselling services ... indicate clearly in their advertising that they do not support referral for abortion.'</p> | BCAP agrees. |
| 2 | British Pregnancy Advisory Service (BPAS) | <p>BPAS welcome the proposed changes to the rules for the advertising of Post Conception Advice Services. We are pleased that the Committee has opted to include 11.11 on the advertising of post-conception pregnancy advice services, which will improve clarity as to which services can and cannot refer women opting for abortion to treatment.</p> <p>BPAS believes that the proposals give a clear indication that transparency is crucial in the advertising of post-conception advice services to women facing an unintended pregnancy. Women should be free to access services that meet their needs and advertising should enable women to make informed choices about the provider of their care.</p> | BCAP agrees. |
| 3 | FPA and Brook and National Secular | We welcome the proposed new rule requiring services that offer post- | BCAP agrees. |

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| | Society (NSS) | <p>conception advice on pregnancy to make it clear in their advertising if they do not refer or signpost women to abortion services. We believe it is vital that women are aware of whether these services will provide them with objective, accurate and up to date information about all of the options, including abortion, and whether services will refer them to abortion services.</p> <p>We support advertising for services that enable women to make an informed choice as early as possible in pregnancy and not risk the complications, both physical and social, of delaying termination.</p> <p>Women (and couples) who are not able to consult their families, others in their communities or even their GPs for cultural or religious reasons are especially vulnerable and need full, unbiased and discreet information about pregnancy termination. Media adverts may well be their only contact with information if it is seen as morally or religiously unacceptable within their families or social groups.</p> <p>We think it is vital that all women who are considering abortion should not be delayed in accessing the services they need as the Royal College of Obstetricians and Gynaecologists guidance states that the earlier an abortion takes place, the safer it is for the woman.</p> | |
| 4 | NSS | <p>The NSS agrees that family planning advice should be regulated through general rules only with the stated proviso that <i>they should 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, in line with advertisements for sanitary protection products.</i></p> | <p>BCAP considers that concern about inappropriate scheduling are already addressed by section 32 of the BCAP Code which cautions broadcasters to take "special care when scheduling advertisements that might be unsuitable for children or young persons or the audience of religious programmes or for broadcast around sensitive programming." BCAP does not consider that an additional scheduling rule for PCAS (including non-commercial PCAS which can already advertise) is justified. BCAP reminds respondents that all advertising will need to comply with the general provisions in the BCAP Code, notably that ads must not mislead, harm or cause serious or widespread offence.</p> |
| 5 | FPA and Brook; NSS; Abortion Rights | <p>The proposed rule may impact on pro-choice organisations that provide impartial and non-directive counselling because by the very nature of the service, they cannot refer women for termination.</p> <p>For example both FPA and Brook run help lines that give women accurate and non-directive information and signpost them to where they can obtain a referral for an abortion if they want. The inclusion of text stating that we do not refer women for abortion could deter some women from accessing our services thinking that we are opposed to abortion. This could create delays for women in accessing impartial information or services when they need them.</p> <p>We believe that the rule should go further to require organisations to state whether they are pro or anti- choice. This would enable women to make a more informed decision about where they are accessing information from.</p> <p>Services which do not refer women for abortion (and may have a philosophy against abortion) are not subject to any regulatory oversight. Some unregulated services do not always provide quality information or may not always be non-directive in this area.</p> <p>The Department of Health's advice to the public is:</p> | <p>BCAP's proposed rule does not prescribe the content of ads for PCAS. BCAP considers that for the reasons outlined in the Consultation Document, PCAS should indicate whether they will not directly refer a woman for a termination which addresses respondent's concerns that women may not be aware that a provider may not be able to refer them directly for a termination. BCAP considers that requirement is appropriate irrespective of the ideological stance of the PCAS.</p> <p>BCAP cannot comment on the service PCAS provide, but does not consider that an ad should indicate the ideological persuasion of the PCAS provider.</p> |

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| | | <p>'There are a number of organisations advertised in phone directories and on the internet offering free pregnancy testing and counselling. Some of these organisations do not refer women for termination of pregnancy. We would advise women to check this before making an appointment'.</p> <p>We believe the extent of this problem is such that it warrants the introduction of further explicit wording clarifying the provider's ideological stance on the issue of termination of pregnancy, as suggested above, to ensure that clients are able to access appropriate services in a timely fashion and to ensure maximum transparency about the approach of the service provider.</p> | |
| 6 | NSS | <p>The NSS does not believe that the potential for offence taken by religious or moral minorities, however vocal they may be, should be allowed to influence regulations made for the benefit of the population in general, or that religious groups should be allowed to expose vulnerable people to serious infections and pregnancy or to prevent abortions by denying access to information.</p> | <p>The general provisions of the BCAP Code will continue to apply to all PCAS, namely that ads must not cause serious or widespread offence, be likely to mislead or harm viewers/listeners.</p> |
| 7 | FPA and Brook | <p>We are concerned that organisations that are opposed to abortion will continue to provide women with misleading or false information in an effort to deter them from having an abortion rather than just delay their access. This misinformation can include using graphic videos of abortion or use other visual materials which cause distress. Some of the false information they provide exaggerates the possible physical or psychological impact of abortion, for example claiming there is a link between abortion and breast cancer, which the available evidence does not support. These services often over-emphasise the use of later abortion procedures, which are rarely used.</p> <p>In addition, some of the misinformation provided by services which are opposed to abortion can have a long-term negative impact on women's health. For example, some anti-choice organisations claim that abortion can lead to infertility, although there is no evidence of a link between legal abortion and infertility. Consequently, some women who have received this information and do have an abortion believe wrongly that they are infertile and therefore do not use contraception, which puts them at risk of further unplanned pregnancies.</p> | <p>BCAP considers these comments to be about the service offered by some PCAS rather than the proposed Code rule.</p> |

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| 8 | FPA; Brook; NSS and Abortion Rights | We strongly believe that the proposed rule should go further to require organisation to state their pro or anti-choice stance so that women are fully informed of what an organisation believes before accessing services from them. | BCAP does not consider that there are strong public health grounds to introduce a requirement for all PCAS providers to state their ideological stance in advertising. BCAP considers that the proposed rule strikes a balance between the legitimate right of a range of PCAS providers to advertise and the need for women to have sufficient information about whether those providers can refer them for a termination. BCAP does not consider there to be strong grounds on which to require providers to explain <i>why</i> they could not refer a woman for a termination unless they choose to do so. |
| 9 | Abortion Rights | We believe that Rule 11.9, requiring advertisers 'Offering Advice on, or Treatment of Medical, Personal or other Health Matters' to provide evidence of suitable credentials of relevant professional expertise or qualifications etc, provides sufficient protection and adequate information to audiences viewing such advertisements. | BCAP agrees. |
| 10 | British Pregnancy Advisory Service (BPAS) | We would suggest that the Committee carefully consider the definition of 'suitable credentials' in relation to establishing those providers that are fit to advertise their services. Reputable charities providing health services should work to clinical standards, such as those of the Royal College of Obstetricians and Gynaecologists 'Care of Women Requesting Induced Abortion' (2004) and are licensed by the Department of Health and registered with the Care Quality Commission. Healthcare organisations advertising on television and radio should be able to provide similar credentials to demonstrate that they deliver a high-quality, patient-focused service grounded in best clinical practice. | <p>BCAP has carefully considered the implications of removing the existing rule and allowing a range of PCAS to advertise on TV and radio. In BCAP's view, the requirements of 11.9 ensure audiences are offered advice from services which have suitable credentials. Code rule 11.9 states:</p> <p>"Advertisements are acceptable only if the advertiser can provide suitable credentials, for example, evidence of: relevant professional expertise or qualifications; systems for regular review of their skills and competencies and suitable professional indemnity insurance covering all services provided; accreditation by a professional or regulatory body that has systems for dealing with complaints and taking disciplinary action and has registration based on minimum standards for training and qualifications"</p> <p>BCAP considers that those standards, which already apply to services and clinics, establishments and the like that offer advice, treatment in, medical, personal or other health matter, are appropriate standards that are applicable to PCAS. BCAP understands that PCAS which only offer advice or counselling do not require registration with the Care Quality Commission under the Health and Social Care Act 2008 and does not consider that the BCAP Code should introduce requirements about the credentials of organisations that are greater than those required by the law.</p> |
| | Respondent making points against the proposal: | Summary of significant points: | BCAP's evaluation: |
| 11 | Association of Catholic Women; CARE and CARE Confidential; The Christian Medical Fellowship | The BCAP Consultation Document states that the basis upon which the referral proposal has been made is that "a pregnant woman should be afforded information at the earliest stage on whether a service does not include referral for termination of pregnancy". This rule infers that there is concern that pregnancy advisory services delay women accessing abortion provision. However there is no evidence provided to suggest that this is a problem. Pregnancy advisory services always refer women straight to their GP if a woman wants an abortion so there is really no delay, other than to inform a woman (and/or her partner) of | BCAP considers that women who are or who might be pregnant and are considering a termination merit specific protection under the Code. BCAP's proposed rule allows PCAS to freely advertise subject to other provisions in the Code regarding their credentials and the content of advertising, but also ensures that those ads make clear whether the provider can refer women for a termination. BCAP considers that information makes clear whether a service refers a woman for termination is important because, for those who opt for it, delay in performing a termination could result in medical complications. Furthermore, BCAP is aware that the Report of the House of Commons Science and Technology Committee on the Scientific Developments Relating to the Abortion Act 1967 |

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| | | <p>their choices, including abortion. To raise this issue of a delay is to raise a false alarm and is unsubstantiated, unnecessary and discriminatory.</p> <p>To create alarm about potential delay in obtaining an abortion will also serve to fuel an inappropriate sense of anxiety about the risk to women of attending independent PCAS. Abortion providers are not obliged by law to offer information or signposting to women enabling them to pursue the two other options of adoption or keeping the baby so by discouraging women from accessing (usually free) PCAS that are not linked to abortion provision, out of misplaced fear, means that women will be unlikely to receive information that enables them to consider fully all three options open to them.</p> | <p>recommended that “to ensure that no patients are misled, we ... recommend that the Government consider ways of ensuring that all those claiming to offer pregnancy counselling services ... indicate clearly in their advertising that they do not support referral for abortion.”</p> <p>BCAP understands that Pregnancy Advice Bureaux (PABx) are required to offer women information about the choices available to them, including alternatives to termination as stated in the Consultation Document</p> <p>BCAP does not consider that the application of rule 11x is likely to cause anxiety or fear to the audience.</p> |
| 12 | <p>Association of Catholic Women; Christian Concern; The Christian Institute; The Christian Medical Fellowship; Cornwall’s Community Standards Association; Mediawatch UK</p> | <p>The advertisement of criminal activities is specifically prohibited by the law.</p> <p>Abortion is a criminal offence under the Offences Against the Persons Act 1861. Whilst the Abortion Act 1967 provides limited exceptions to this rule in certain circumstances, abortion continues to be illegal under English law outside of these exceptions. Thus, <i>the House of Common’s website notes that the “Abortion Act 1967 did not make abortion legal but conferred upon doctors a defence against illegality”</i>. Moreover, abortion adverts by commercial providers will further mislead women about the legality and availability of abortion. Abortion remains a criminal offence outside of the exceptions provided by the Abortion Act 1967. Advertising abortion involves the highly unusual if not unprecedented situation of a service being advertised which is usually a criminal act. Additionally, the service provider cannot directly provide the service, as the signatures of two doctors are required to approve the procedure in any one case. Commercial abortion adverts may not set out the only grounds on which it is legal to have an abortion, or the two doctor rule, and therefore would mislead women into thinking that abortion is a directly available ‘on-demand’ service. This is not truthful and is in further conflict with BCAP’s own rules against misleading consumers.</p> | <p>BCAP disagrees. The proposed rule relates to PCAS, not advertisements for abortion. As stated in the Consultation Document, PCAS can offer a range of services to women, including advice on health and well-being, provision of ultrasound services or advice about women’s choice to continue with pregnancy or termination.</p> <p>In light of its consultation in 2009, BCAP has carefully considered objections that advertisements for PCAS indirectly promote treatment for termination which many respondents argued was illegal. As the Consultation Document sets out, the Abortion Act 1967, as amended by the Human Fertilisation and Embryology Act 1990, provides a defence for abortions in some circumstances. Abortion is therefore not illegal in all circumstances. The legal situation is, however, more restrictive in Northern Ireland. BCAP’s proposals take account of this legal situation and recommend that broadcasters and advertisers seek legal advice before advertising.</p> <p>The proposed rule 11x underscores that advice and states:</p> <p>“Advertisements for services offering advice on unplanned pregnancy must make clear in the advertisement if the service does not refer women directly for a termination. Given that terminations are lawful only in some circumstances, and are subject to particularly stringent requirements in Northern Ireland, advertisers may wish to seek legal advice before advertising.”</p> |
| 13 | <p>Anscombe Bioethics Centre; Association of Catholic Women; CARE and CARE Confidential</p> | <p>We are opposed to the proposal that all services be required to state if they do not refer for abortion. The implication of the proposal is that abortion is the expected result of a crisis pregnancy, so that the mere fact that a pregnancy service does not refer for it deserves special note. The proposal does not similarly require PCAS to state that they do not offer practical help for women through pregnancy to birth and beyond; for example, help with baby clothes and equipment.</p> <p>To ask advertisers to include information about what they do not provide is very unusual, unnecessary, and potentially confusing, perhaps leading women who seek help to believe that contact with these organisations would prevent them having an abortion as well as</p> | <p>BCAP does not prescribe the content of advertisements but expects all advertisements to comply with the general requirements of the Code, e.g. not to mislead, harm or cause serious or widespread offence. PCAS which wish to promote their independence from the provision of abortion may do so in their advertising.</p> <p>BCAP considers that there are strong public health grounds to introduce an additional rule that all PCAS, whether they be commercial or otherwise, to state whether they refer women directly for termination. BCAP notes that the introduction of that requirement accords with the view of the Report of the House of Commons Science and Technology Committee on the Scientific Developments Relating to the Abortion Act 1967 recommended which states that “to ensure that no patients are misled, we ... recommend that the Government consider ways of ensuring that all those claiming to offer pregnancy</p> |

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| | | <p>reducing choice.</p> <p>The proposed rule disadvantages counselling services that are commercially independent of abortion provision, giving advantage to those that have a direct or indirect commercial interest in abortion. In other contexts it is, rather, those who have a competing financial interest that are expected to declare it.</p> | <p>counselling services ... indicate clearly in their advertising that they do not support referral for abortion."</p> <p>BCAP considers that women considering their options require special protection under the Code and that the introduction of 11x minimises the risk of complication which may be caused by a delay in a referral for termination. As the Consultation Document explains, the new rule will only apply to PCAS which offer advice on unplanned pregnancy and not services that may offer other advice, such as on home births.</p> <p>BCAP does not consider it necessary on public health or other grounds to require PCAS to state their financial interests in their advertising.</p> |
| 14 | Family Education Trust | <p>The introduction of a requirement for post-conception pregnancy advice services to make it clear in their advertising that they do not refer women directly for abortion could limit the valuable service provided by pro-life pregnancy counselling organisations which allow vulnerable women time to thoroughly think through all the issues in a non-pressurised environment. Many such services also provide post-abortion counselling for women who have been psychologically damaged by abortion.</p> | <p>BCAP disagrees. BCAP considers that the removal of the prohibition on commercial PCAS on TV and rule 11.11.1 for radio, with the additional requirements about suitable credentials and a statement about referral for termination, will widen the choice of advertised services available to women. BCAP also notes that the removal of rule 11.11.1 would mean it would be possible for other organisations, such as faith based groups, who cannot currently advertise on radio without NHS or equivalent body approval, thus expanding the range of services advertised to women.</p> |
| 15 | CARE and CARE Confidential | <p>By focusing on the question of referral to termination, the changes being proposed by BCAP could increase the likelihood for women to follow the path of termination. This is a situation which we believe is particularly unhelpful for a woman in a crisis situation.</p> <p>Failure to provide women with sufficient information is an affront to their dignity and human rights. It could also make government/regulators/service providers vulnerable to subsequent legal challenge should it be demonstrated that women were provided with sub-standard information. If the ASA is to adopt a progressive, rights based, approach it must ensure that women are properly informed so that they enjoy a 'felt right to choose', especially after they have undergone the chosen way of dealing with the pregnancy, whether that is to stay pregnant, give the child up for adoption or abortion.</p> | <p>BCAP's proposal relates to PCAS, not abortion.</p> <p>It is not BCAP's role to promote one product or service over another and it does not consider that allowing a range of services to be advertised will significantly alter behaviour in the manner suggested.</p> <p>BCAP considers that Code rule 11.9 offers sufficient protection for the removal of rule 11.11.1 and the prohibition on commercial PCAS from advertising on television.</p> <p>BCAP agrees women should have relevant information when choosing a provider, so on public health grounds proposes to require services to indicate whether they can refer women for termination.</p> |
| 16 | Cornwall's Community Standards Association | <p>We cannot support introducing a new rule obliging services which offer post-conception advice on pregnancy being allowed to do this with the proviso that they make clear in their advertising that they do not directly refer women for a termination. This rule would lead to the impression that advertising for abortion services is right, but other post-conception advice services are not. This creates bias from the ideological point of view. It would also imply that pro-choice services unable to refer women for abortions are opposed to abortion. Should such a rule be introduced, then advertisements for services which can refer women for abortion should make it clear whether or not they offer counselling for women who wish to keep their babies.</p> | <p>BCAP does not prescribe the content of advertising but expects advertisements to comply with the general provisions of the Code (i.e. not cause harm or offence or be likely to mislead). BCAP understands that PCAS offer a range of services, which may include termination if a woman so chooses. It is not the role of BCAP to promote one advertiser or viewpoint over another and it does not consider that its proposals, which allow commercial PCAS to advertise and other providers such as faith-based groups who would no longer need NHS body approval but 'suitable credentials', creates an ideological bias in the advertising Code.</p> <p>BCAP does not consider it proportionate to require all PCAS providers to indicate whether or not they offer additional counselling for women who decide to proceed with their pregnancy.</p> |

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| 17 | Mediawatch UK | This proposed rule would give the misleading impression that those pro-choice services which are unable to refer women for abortions are opposed to abortion. | BCAP does not prescribe the contents of advertising but expects advertisements to comply with the general rules in the Code regarding misleading advertising. There is nothing to stop services indicating in their advertising whether or not they are opposed to abortion: however, that is not the subject of BCAP's proposal. |
| 18 | The Society for the Protection of the Unborn Child (SPUC) | <p>This requirement singles out, as in some way especially noteworthy, those organisations which are not directly or indirectly part of the abortion industry. The assumption is that abortion is so normal a procedure that those groups wishing to assist women in bringing their babies to term are required to warn women explicitly that they will not 'assist' them in doing the very reverse. Such a requirement would not be made of other counsellors (for example, those aiming to dissuade people from going to an assisted suicide clinic). Moreover, such a 'warning' may deter those most in need of practical help and whom the counsellors in question sincerely believe are not well served by abortion.</p> <p>Abortion providers, in contrast, are not required to inform women that they offer no serious practical help for those who might wish to have their babies, and who might reasonably expect to receive such help from those offering pregnancy advice.</p> | <p>See BCAP's response 13 and 16.</p> <p>Where the ASA sees evidence that an advertisement for a service omits information material to a consumer's transactional decision such that it is likely to mislead, it may investigate under Section 3 (Misleading advertising). BCAP has not seen evidence of misleading advertising of the kind mentioned by the respondent. BCAP's proposal to introduce a specific rule for PCAS is based on the information provided in the consultation document. BCAP does not regulate PCAS but understands that approved PABx must abide by the Required Standard Operating Principles which are that women must:</p> <ul style="list-style-type: none"> • have a pregnancy test as appropriate; • be fully informed about the choices available– including alternatives to a termination; • have the opportunity to receive information on pregnancy matters; • receive impartial advice on the termination options that are available to her; • be given advice on contraceptive needs. <p>The Code of Practice by which PABx must abide by sets out the level of service that approved places and registered bureaux in the private sector can expect from the Department of Health including:</p> <ul style="list-style-type: none"> • impartial and fair treatment of applications • prompt response to enquiries • clear, concise and unambiguous information and advice • responsibility to uphold the Secretary of State's principles • independent review of complaints about the treatment of applications • value for taxpayers' money in the application of regulations |
| 19 | Association of Catholic Women; Christian Concern; CARE; CARE Confidential; Christian Concern, The Christian Institute; The Christian Medical Fellowship; LIFE and Mediawatch UK | <p>PCAS should not be required to make statements to the effect that they do not refer women for abortions.</p> <p>If commercial abortion advertising is to be permitted, abortion advertisers should have to include health warnings in their advertisements about the side effects of abortion. This would parallel the situation in the financial sector, where, since financial advisers are under a duty to make known the risks, warnings about risk are routine in adverts for their services.</p> <p>As recently as 2008, the Royal College of Psychiatrists advised that women should be warned about the mental health risks before proceeding. Studies show that women having induced abortions are almost twice as likely to suffer mental health problems, three times as likely to have major depression and six times as likely to commit suicide as mothers who do not have an abortion.</p> <p>BCAP's proposal is at odds with how advertising works. An organisation advertising its services is telling would-be service users what it does. There should be no requirement on service providers to</p> | <p>BCAP disagrees. The proposed rule relates to PCAS, not advertisements for abortion. As stated in the Consultation Document, PCAS can offer a range of services to women, including advice on health and well-being, provision of ultrasound services or advice about women's choice to continue with pregnancy or have a termination.</p> <p>BCAP considers that there are strong public health grounds for a statement in an advertisement for PCAS when the audience may have a legitimate expectation that a PCAS could refer for a termination.</p> <p>BCAP does not consider it proportionate to require all PCAS providers to detail the potential implications of having a termination in an advertisement, particularly when it is only one of the services they may provide and one which the woman may not choose. Furthermore, BCAP is of the view that if a woman chooses to have a termination, the implications of that procedure are best discussed with the PCAS provider rather than communicated in an advertisement.</p> |

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| | | <p>include in their advertisements what they do not do. Furthermore, it is entirely legal to counsel someone to keep a child and provide practical help in doing so. It is abortion that is illegal, except in certain cases, so it is referral for abortion rather than non-referral that should have greater restrictions placed upon it. Those advice centres that do not refer for abortion should have more freedom to advertise than those that do, since, unlike advice or counselling, abortion is not available directly to the public.</p> <p>It is striking that the BCAP proposals do not lay out a requirement for advice centres who do not offer such full informed consent, any alternatives, on-going support, in depth counselling and a full caring service including material assistance to state this in their advertising. As opposed to a full service, they offer only an abortion service which could equally be construed as being misleading. Given that of the aims of the BCAP is to provide protection for the vulnerable, this kind of full disclosure would surely constitute part of this protection.</p> | |
| 20 | Anscombe Bioethics Centre | <p>We are strongly opposed to the proposal that all services be required to state if they do not refer for abortion. To require this is no more appropriate than it would be to require that suicide counsellors (say, the Samaritans) must state that they do not provide suicide assistance or refer for such assistance (whether inside or outside their own country).</p> <p>The same holds for abortion: the implication is that abortion is privileged as the expected result of a crisis pregnancy, so that the mere fact that a pregnancy service does not refer for it deserves special note. Not worthy of note, apparently, is the standard failure of referring services to provide practical help for women through pregnancy to birth and beyond; for example, help with baby clothes and equipment. We would note that the BCAP summary of arguments against a change in the Code includes a reference to the offer of 'counselling of women who choose to keep their babies' but says nothing about the offer of practical help to women who might choose to have their babies if they knew such help was available (it is standard for non-referring pregnancy advice services – in contrast to abortion-oriented services - to provide such hands-on assistance). It should also be noted that the proposed rule disadvantages counselling services that are commercially independent of abortion provision, giving advantage to those that have a direct or indirect commercial interest in abortion. In other contexts it is, rather, those who have a competing financial interest that are expected to declare it.</p> <p>To effectively penalize those who assist women in practical ways, because their very concern for their clients precludes referrals for one particular procedure, is once again to privilege those for whom abortion is the obvious answer to any unplanned pregnancy, and one from which (again in contrast to non-referring services) they may derive much commercial benefit. We would therefore urge that this change also be rejected.</p> | <p>BCAP disagrees. BCAP considers that there are strong public health grounds to introduce an additional rule that all PCAS, whether they be commercial or otherwise, to state whether they refer women directly for termination. BCAP notes that the introduction of that requirement accords with the view of the Report of the House of Commons Science and Technology Committee on the Scientific Developments Relating to the Abortion Act 1967 recommended which states that "to ensure that no patients are misled, we ... recommend that the Government consider ways of ensuring that all those claiming to offer pregnancy counselling services ... indicate clearly in their advertising that they do not support referral for abortion."</p> <p>BCAP has not seen evidence of failure by referring PCAS to adhere to the Required Standard Operating Principles listed in response 18 above and notes that it is for the Department of Health to enforce those principles. BCAP does not regulate PCAS, but its proposal is based in part on an understanding that the sector is regulated in a way that ensures it may safely be advertised in broadcast media, taking into account the sensitive nature of the services involved.</p> <p>BCAP's proposal does not penalise services that do not refer women for termination: it merely requires them to state that limitation to the services they provide.</p> |
| 21 | Christian Concern | <p>Without a requirement on advertisers to provide information on the health risks of abortion, any abortion advertisements are likely to be misleading or harmful under s319 of the Communications Act 2003</p> | <p>BCAP notes that the proposed rule change relates to the advertisement of PCAS, not directly for abortion.</p> |

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| | | <p>which states that advertisements must not harm or mislead consumers by concealing “material information”, which is “information that consumers need in context to make informed decisions about whether or how to buy a product or service”</p> <p>Abortion procedures place women at an increased risk of developing physical and emotional disorders. Therefore, the Royal College of Psychiatrists advised in 2008 that women should be warned about the mental health risks before proceeding, and recognised 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”.</p> <p>It is vital that women are provided with accurate, comprehensive and impartial advice on the emotional and physical impact of abortion, and to recognise instances where these risks may be heightened (e.g. due to the existence of coercion or pre-abortion medical disorders). Some of those risks are mentioned below in the Appendix.</p> <p>On this basis, if advertisements for abortion are allowed, they would have to provide information on the health risks in order not to breach section 319. As this won’t happen, advertisements for abortion must be prohibited to protect vulnerable women, and the current law permitting not-for-profit abortion providers to advertise their services on TV and radio should also be reversed.</p> | <p>BCAP has carefully considered the implications of the proposed rule change. Ofcom has statutory responsibility under the Communications Act 2003 for maintaining standards in TV and radio advertising. Ofcom contracted out that function to BCAP and the broadcast arm of the Advertising Standards Authority in 2004. BCAP does not consider that the omission of information about the implications of a termination, which may be one of many options a woman chooses at a later date, in an advertisement for PCAS is likely to harm or mislead the audience. BCAP understands that several respondents have concerns about the health implications of termination, but considers that BCAP is not best placed to address those points.</p> |
| 22 | The Christian Medical Fellowship | <p>PCAS range in the services they provide from the provision of a pregnancy test only, to information on three options (abortion, adoption, keeping baby), to exploring the decision and context, to ensuring informed consent, to either birth or abortion.</p> <p>Women should not proceed through these stages as if on a non-stop conveyor belt but should be proceeding through a series of distinctive stages, involving separate decisions and supported by specialists/experts for different stages. The problem with the proposals as they stand is that they would further blur the distinctions between the stages by melding the information and advice stages with the abortion provision stage, making it unlikely that women would receive specialist independent advice and expertise at the key decision-making points.</p> <p>This problem is illustrated by a quote from the BPAS website, which shows how counselling and medical assessment are confused: “Counselling is a part of the initial consultation at BPAS during which you will also have a medical screening so that we can assess your stage of pregnancy and medical history to find out which methods of abortion are most suitable for you”.</p> | <p>BCAP’s proposal relates to the advertising of PCAS, not directly for abortion. All advertisements must comply with the general provisions of the BCAP Code (i.e. that advertising must not harm or offend or be likely to mislead). BCAP cannot comment on the quality of the service a woman may receive from a particular PCAS provider but notes that approved PABx must abide by the Required Standard Operating Principles which are that women must:</p> <ul style="list-style-type: none"> • have a pregnancy test as appropriate; • be fully informed about the choices available– including alternatives to a termination; • have the opportunity to receive information on pregnancy matters; • receive impartial advice on the termination options that are available to her; • be given advice on contraceptive needs. <p>The Code of Practice by which PABx must abide by sets out the level of service that approved places and registered bureaux in the private sector can expect from the Department of Health including:</p> <ul style="list-style-type: none"> • impartial and fair treatment of applications • prompt response to enquiries • clear, concise and unambiguous information and advice • responsibility to uphold the Secretary of State’s principles • independent review of complaints about the treatment of applications • value for taxpayers’ money in the application of regulations |
| 23 | Pro Life Alliance | <p>The term PCAS clearly encompasses a wide variety of functions such as advice on morning sickness, diet and nutrition, antenatal classes, benefits and housing etc. From now on would the providers of such</p> | <p>As stated in the Consultation Document, page 12, BCAP’s proposal only applies to PCAS concerned with unplanned pregnancy.</p> |

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| | | <p>services also have to state that they do not direct women to abortion?</p> <p>We note, for example, that the elderly are another vulnerable group: would all services directed at those over retirement age be advertised only by those deemed to have suitable credentials?</p> | <p>If an advertisement offers a service offering advice on, treatment in, medical, personal or other health matters then that provider needs to demonstrate they have suitable credentials.</p> |
| 24 | <p>Anscombe Bioethics Centre; Christian Concern; The Christian Institute</p> | <p>The advertising of commercial and other abortion services is distressing and/or offensive to many, not just to the groups mentioned in your summary of responses to the previous BCAP consultation (religious groups, disabled people and women unable to have children). One important group not mentioned in the summary is women who have had abortions themselves, and have been adversely affected by them, whether physically or psychologically. For women in this situation to see the same elective procedure which did them so much harm marketed like any other product will anger and disturb many – perhaps especially if they see the procedure marketed for commercial gain. The advertisements will also be disturbing to those who successfully resisted pressure to abort, but whose children (for example, children with disabilities) are implicitly presented by the advertising as something parents and/or society would be better off without. They, in addition to their offspring if they are able to understand, will rightly find this advertising offensive and insulting.</p> <p>Respondents note that section 4.2 of the BCAP Code states that advertisements must not “cause serious or widespread offence against generally accepted moral, social or cultural standards” and believe the proposals will breach that rule.</p> | <p>BCAP considers that viewers who may be upset or offended by advertising for PCAS for a variety of reasons are afforded adequate protection under the Code rules which guard against offence and ensure that advertisements are scheduled sensitively. It is a general principle of BCAP’s scheduling rules that special care should be taken when scheduling advertisements that might be unsuitable for children or young persons or the audience of religious programmes.</p> |
| 25 | <p>The Christian Institute</p> | <p>Abortion is allowed up to birth in the case of handicap. Last year 2,290 such abortions were carried out on women resident in England and Wales, with seven of those for minor malformations such as cleft lip or palate. This is likely to upset many disabled people who watch abortion services being advertised on TV.</p> <p>The likely offence caused should therefore be sufficient justification for the advertising restrictions currently in place for commercial abortion services.</p> | <p>See BCAP’s response 24.</p> |
| 26 | <p>Christian Concern</p> | <p>Abortion is a highly politicised and controversial procedure. We believe that advertisements for abortion fall within the longstanding ban on political advertisements under both section 321 of the Communications Act 2003 and section 7 of the BCAP Code. These provisions specifically require BCAP to refrain from sanctioning advertisements of a political nature, which could potentially influence public opinion on a matter of public controversy.</p> | <p>The responsibility for the application of the rules that prohibit “political” advertising has not been contracted out to BCAP and remains with Ofcom. Section 7 of the BCAP Code sets out the basic provisions of the ban in section 321 of the Communications Act 2003 on advertising concerned with ‘political’ or publicly controversial matters. In summary, the ban prohibits both political advertisers and political advertising messages: no advertising may be placed by a body whose aims are wholly or mainly ‘political’; and no advertising may be directed to a political end. In respect of the status of advertisers in this field, those whose aims may be wholly or mainly political (whether pro- or anti-abortion rights) would be assessed as they always would have been. As to the content of advertising in this area,</p> <p>BCAP’s proposal relates to the advertising of PCAS in general, not directly for abortion. BCAP is confident that advertisements dealing generally with post-conception advice will not breach section 7 of the BCAP Code. When this proposed rule change was originally tabled during the 2009 Review of the Code Ofcom did not suggest that the proposal would breach section 7 of the BCAP Code or sections 321(2) or (3) of the Act. Furthermore in its</p> |

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| | | | September 2010 Finding on a Marie Stopes International advertisement ¹ , which found the advertising to be compliant with section 321 of the Act. Ofcom stated that “More generally, Ofcom’s view is that the mere fact of an advertisement referring to pregnancy placed by an advertiser that provides abortions – among other sexual health and reproductive services – and that has a commitment to, inter alia, women’s access to abortion, does not bring the advertisement within the terms of either section 321(2)(a) or 321(3)(f)”. ² . |
| 27 | Association of Catholic Women; Christian Concern and LIFE | <p>It is not immediately clear how “medical and health advice” and “suitable health credentials” will be interpreted once this rule is in effect. If crisis pregnancy counselling were to be defined as “medical and health advice”, then there seems to be a risk that “suitable health credentials” will be understood in such a way as to restrict the operations of organisations that have areas of ethical and organisational tension with major health bodies.</p> <p>Respondents counsel caution in introducing very strict rules about accreditation as some Crisis Pregnancy Centres would not necessarily meet all of those standards, yet are still offering a good and valuable service. Besides this consideration is the future possibility than the built-in ambiguity of the new rules may restrict services unfairly.</p> <p>The proposed need for medical credentials in order to advertise abortion services discriminates against pro-life organisations as only major abortion clinics are likely to be able to meet this criterion. The proposed requirement will prevent many religious organisations, charities and non-medical organisations from advertising their post-conception services on television. Therefore this requirement appears to be in favour of abortion providers and is wholly inequitable.</p> | <p>Rule 11.9 states:</p> <ul style="list-style-type: none"> Services including Clinics, Establishments and the like Offering Advice on, or Treatment in, Medical, Personal or other Health Matters – Advertisements are acceptable only if the advertiser can provide suitable credentials, for example, evidence of: relevant professional expertise or qualifications; systems for regular review of their skills and competencies and suitable professional indemnity insurance covering all services provided; accreditation by a professional or regulatory body that has systems for dealing with complaints and taking disciplinary action and has registration based on minimum standards for training and qualifications. <p>It is not BCAP’s intention to restrict particular providers from advertising PCAS, but to ensure audiences are offered adequate protection from services offering personal advice they must demonstrate that they have ‘suitable credentials’ as detailed in rule 11.9. BCAP accepts that what may be deemed to be ‘suitable’ will depend on the service being advertised. For example, for PCAS only offering counselling it may be sufficient for the provider to demonstrate they hold the relevant qualifications or expertise and are accredited by a professional regulatory body.</p> |
| 28 | The Christian Medical Fellowship | <p>Abortion providers are experts in carrying out abortions, they are not experts in counselling, nor are they in a position to offer independent counselling in an environment that is not directed towards abortion. Abortion providers by their very nature will tend to direct women to abortion, it is in their financial interest and part of their aim to do so. It is therefore inappropriate for abortion providers to provide counselling and advice on decision-making. Similarly, advisory centres must remain separate from abortion providers or they too cannot be independent and impartial.</p> | <p>All PCAS, irrespective of whether or not they can refer women for termination, will need to demonstrate they have the suitable credentials to offer their services.</p> <p>BCAP does not regulate the service PCAS provide and cannot comment on the appropriateness of PCAS that can refer women for termination also providing counselling services. BCAP does, however, note that PABx are required to ensure that women are fully informed about the options available to them.</p> |
| 29 | The Christian Medical Fellowship | <p>Whilst we support in principle that PCAS advising women on their options with respect to unplanned pregnancy should acquire certain credentials and standards in order to ensure that the information and counselling services they offer are of a high standard, as we have already stated above, CMF is opposed in principle to permitting commercial abortion providers to advertise on TV and radio.</p> <p>Therefore we cannot support the introduction of rule 11.9 for commercial PCAS providing abortion who wish to advertise on TV and radio. This is irrespective of whether these commercial abortion providers (principally MSI or BPAS) obtain their income directly from</p> | <p>See BCAP’s response 27.</p> <p>BCAP does not consider the services listed by the respondent to be commercial services offering individual advice on personal or consumer problems for the purposes of the BCAP Code. As stated in the consultation document (pages 8-9), “in practice, the [BCAP] TV rules already allow a wide variety of PCAS to advertise. The majority of PCAS are not-for-profit and/or charitable services, which are not prohibited under rule 11.11.3. Such services include NHS services, BPAS, Marie Stopes, PCAS run by or in association with faith based organisations for example The Good Counsel Network, Brixton Pregnancy Advice Centre and Tyneside Pregnancy Advice Centre, but would exclude PCAS that are ‘commercial’. This is not necessarily synonymous with, but is likely to cover, profit-making PCAS”.</p> |

¹ <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb166/issue166.pdf>

² Ibid.

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| 30 | The Christian Medical Fellowship | <p>the consumer or indirectly from tax revenues via the NHS.</p> <p>We strongly recommend that there should be wider consultation on what 'suitable credentials' are before any decision is made. These are not properly defined in the BCAP consultation document. As this matter of independent counselling and information is currently being reviewed by the government (see 1.7) it cannot therefore be assumed that pregnancy bureaux currently endorsed by the NHS (which include the main commercial abortion providers) should automatically be regarded as already having 'suitable credentials'. In fact, organisations which are linked directly to abortion provision should, we believe, be precluded from advertising services of information provision and counselling for the reasons outlined above (1.10 and 1.11).</p> <p>Currently only those organisations that are part of the NHS, or are registered with the DoH (primarily BPAS/MSI) or are regulated with the Care Quality Commission are permitted to advertise on radio. We oppose this current practice for the reasons outlined above. The provision of information and counselling with respect to legal options in pregnancy must be independent from abortion provision. (see 1.10, 1.11) Instead radio advertising must be made available to PCAS which are independent of abortion providers, regardless of whether or not they offer a referral for abortion. The need for 'suitable credentials' as presently defined by rule 11.13 should not be used to exclude from advertising organisations which do not share the ideology of the pro abortion lobby.</p> | See BCAP's responses 22 and 27. The ASA enforces the BCAP Code. It is for the clearance centres and, in the case of challenge through complaint, the ASA Council, to determine whether a particular service fulfils the criteria outlined in the rule. |
| 31 | The Society for the Protection of the Unborn Child (SPUC) | <p>Those groups which refuse to refer for abortion and which offer practical assistance to pregnant women who want to keep their babies are highly unlikely to qualify as having 'suitable credentials'. Already they are very seldom referred to by GPs faced with women in distress over their pregnancies and they might well, by the very fact that they refuse to be involved in the abortion process, be deemed not to have the right credentials, regardless of how professional they are.</p> <p>This new proposal does not benefit them, even if they could afford to advertise (they do not receive the kind of state support given to abortion providers nor are they commercial ventures). Meanwhile, the commercial outfits displaying 'suitable credentials' will have further increased dominance through advertising, which will be partly paid for, indirectly, by the taxpayer via NHS contracts. In short, this proposal, in practice, benefits only abortion providers.</p> | See BCAP's response 27. |
| 32 | St Bernadette's Parish Council | <p>The reference to "suitable credentials" on the part of organisations wishing to advertise is very sinister. Does this mean that an organisation which offers real help to mothers who keep their babies but who do not refer for terminations is disqualified from advertising?</p> <p>The requirement that services must state that they do not refer for abortion is another attack against those organisations which will provide genuine help. The implication of this is that abortion is now so normal and acceptable a procedure that organisations not promoting it are in some way defective. Why is there no corresponding proposal for Abortion Providers to state they offer nothing but abortion?</p> | See BCAP's response to point 23 and 27. |

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| 33 | Anscombe Bioethics Centre | <p>Many women who find themselves unexpectedly pregnant receive the message from their society that pregnancy, or 'unwanted' pregnancy, is not a normal, healthy condition with a possible good outcome (the birth of a baby) but a bad thing to be swiftly eradicated by a 'medical' intervention. In the emotional first few weeks after conception, women are particularly vulnerable to such pressure and negative influences from partners, family and the wider world concerning their pregnancies.</p> <p>Advertising which adds to this pressure, which can be considerable, further subtle or not-so-subtle pressure from those with an avowed commercial interest in abortion is, we believe, dangerous and unfair. Whether or not the word 'abortion' is used, women will be invited into an environment that is highly abortion-oriented, that has a clear commercial interest in abortion, and that offers (unlike non-referring pregnancy services) no hands on, practical assistance with having a baby.</p> | BCAP considers this to be a comment on the service offered by some PCAS and not BCAP's proposed rule. |
| 34 | Anscombe Bioethics Centre | <p>The removal of the restriction on radio advertising proposed would promote the exploitation of women by commercial and similar services, whereas those with a more life-affirming approach to crisis pregnancy would in practice be excluded as 'ill-qualified' in some way. We have, unfortunately, no confidence in the fairness with which such alternative services would be assessed, and foresee that they would be judged unprofessional even if the reverse were the case (as might happen if, for example, abortion providers or referrers were invited to 'assist' in the accreditation process). We believe that this change, while appearing to benefit non-referring services, would in fact do them little good - always assuming they could afford to advertise, which would not normally be the case. At the same time, it would greatly increase the presence of skilled commercial promoters of abortion, who could then aggressively market their own services.</p> | See BCAP's response 27. |
| 35 | CARE and CARE Confidential | <p>When facing an unexpected pregnancy, women and their partners need accurate information and an opportunity to look at all the options available - parenting, adoption or abortion. In the vast majority of cases abortion providers were their only source of information and this made it very difficult for them to explore their decision in a substantive or meaningful way. There appears to be a huge resistance among abortion providers to giving women enough information – perhaps for the reason that too many of them might choose not to have an abortion. Yet valid choices cannot be made without information. The 'right to choose' is meaningless unless people know just exactly what they are choosing. Far from improving this situation, in our opinion the changes being proposed by BCAP seek to maintain the current unsatisfactory situation and may even help to exacerbate and extend the monopoly of contact by seeking to exclude others who wish to offer help. Recent discussions pertaining to the matter of informed consent would seek to broaden the opportunities for support, beyond the abortion provider.</p> <p>One of the problems with current support services around abortion provision, including crisis pregnancy and post abortion support, is that the abortion providers already have a near monopoly of contact with women in this situation. It is our view that currently the women who want an abortion can very easily find a provider, either via their GP or</p> | It is not BCAP's role to promote one service over another. BCAP's intention is to ensure that advertisements for PCAS do not mislead the audience about the service they offer. BCAP considers that by removing the rule preventing commercial PCAS from advertising, audiences will be able to learn about services that are legally available to them in a medium that may be of more appeal to them. BCAP does not consider that an ability to advertise in another medium justifies a prohibition on advertising in another. |

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| | | directly through the Internet or Yellow Pages. Abortion services are already regulated and only provided by a strictly limited number of organisations such as the British Pregnancy Advisory Service (BPAS) and Marie Stopes. | |
| 36 | Christian Concern | Advertisements for abortion are likely to result in more women, and more teenagers, choosing abortion over other alternatives such as adoption. With almost 200,000 abortions taking place in England and Wales each year, the urgent need to reduce the number of annual abortions has now been widely accepted by government officials, with Health Minister, Anne Milton, describing a reduction in abortion rates as being the government's "absolute priority". | BCAP's proposal relates to the provision of PCAS, not abortion. |
| 37 | Christian Concern | Abortions providers will have every commercial incentive to minimise the seriousness of the procedure in an advertisement and encourage women to have abortions. Yet the provision of abortion cannot be compared with or equated in any respect to other commercial services, since abortion involves the termination of a human life. It is a risky and serious medical procedure which is not directly available to the public but which requires the signatures of two doctors. Therefore advertising is not the appropriate medium for this procedure. | BCAP considers this to be a comment on the service some PCAS offer and not the proposed rule change. BCAP does, however, note that PABx must abide by the Required Standard Operating Principles which are that women must: <ul style="list-style-type: none"> • have a pregnancy test as appropriate; • be fully informed about the choices available– including alternatives to a termination; • have the opportunity to receive information on pregnancy matters; • receive impartial advice on the termination options that are available to her; • be given advice on contraceptive needs. |
| 38 | The Christian Institute | The consultation document states that the new proposal intends to prevent 'avoidable delays'. But, in wanting to prevent delays in access to abortion services, the adverts may serve to enhance the pressure newly-pregnant women face and may inadvertently curtail the much needed space and time to consider and discuss alternative options with qualified persons. Abortion is never a decision that should be rushed or made in haste. | BCAP does not consider that the proposed rule changes for the advertisement of PCAS, which offer a range of services, will increase pressure on women to terminate a pregnancy. All advertisements must comply with the general provisions of the BCAP Code, namely that ads must not harm, offend or mislead the audience. |
| 39 | The Christian Medical Fellowship | Advertising by organisations with a vested interest in increasing the numbers of abortions carried out at their clinics will preclude women from learning about and accessing services that offer independent advice. Certainly, any TV or radio adverts will not be long or informative enough to provide information on alternatives, risks, or legalities. | It is not BCAP's role to promote one product or service over another but BCAP does expect advertisements to comply with the general provisions of the Code (i.e. not cause harm or offence or be likely to mislead). |
| 40 | Association of Catholic Women; CARE and CARE Confidential; the Christian Medical Fellowship; St Bernadette's Parish Council | The proposals favour PCAS that refer women for termination because PCAS that are non-commercial and offer other post-pregnancy support do not have the financial resources available to afford to advertise on TV. Whilst the proposed changes will allow commercial services greater freedom to advertise it is likely that charity based services will not be able to compete in the same way, thus helping to create a new inequality. Such changes may well allow more type of PCAS to advertise on radio and TV but the likelihood is that they will be commercially based as opposed to those who operate as a charity and channel the majority of the restricted resources of time, energy and finance towards helping those in crisis as opposed to advertising campaigns. In our view there appears to be no real need to extend advertising to television, especially as this may lead to persuasive advertising exclusively from abortion providers who have the financial resources to fund TV advertising. | It is not BCAP's role to ensure that one product or service is promoted over another. As detailed in the Consultation Document, BCAP does not anticipate any significant adverse economic impact stemming from its proposals. No providers indicated to BCAP in the previous consultation that they would be likely to advertise as a result of the relaxation of the rules on commercial PCAS, so BCAP has been unable to quantify the number of new providers that would advertise. Similarly, no providers who may benefit from the removal of the radio rule requiring approval by an NHS or Local Health Authority body, which may include faith-based organisations, have identified themselves as being likely to take advantage of the relaxation of the rules so this impact has been difficult to quantify. |

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| 41 | LIFE | It is very unlikely – almost inconceivable in the current climate – that most crisis pregnancy organisations like LIFE could have the financial resources to pay for broadcast advertising. We would add that we have worked well in the current regulatory environment, and we do not see any need for change. If there is to be change, however, we do not want new rules to disproportionately and effect Crisis Pregnancy Centres (CPCs) if they desire to use broadcast advertising in the future. | See BCAP's response 41. |
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| 42 | Cornwall's Community Standards Association; Mediawatch UK | The Health and Social Care Bill is under consideration. It includes an amendment obliging GP's to ensure women considering abortion have available to them the proper information and advice, and the certainty that those providing help are not biased by their financial interests. If this amendment is adopted, it would have effects on the advertising of PCAS and in our view the best way ahead is to defer decision on changes to the Code pending the publishing of the outcome of this amendment. | [BCAP understands that the proposal to require independent counselling before a termination will be debated and voted on in mid- September] |
| 43 | LIFE | There is a resurrection of a measure first mooted several years ago during the passage of the Human Fertilisation and Embryology Act 2008 by MPs hostile to the ethos and work of pro-life pregnancy care organisations. We are concerned that it would represent a severe and unjust restriction of the work not only of LIFE but of similar organisations. Again, we would question why this proposal has been brought forward at this time. Like the attempt to liberalise advertising of abortion services as a whole, it appears to be addressing a non-existent problem. It implies that mainstream CPC services are being deceitful or incomplete in their description of themselves, which is very far from being the case. LIFE nowhere seeks to hide or obfuscate its ethos or practices in its current advertising and publicity. | BCAP does not agree that its proposal amounts to an unfair restriction on the work of the respondent or other similar organisations and its decision to propose the rule has been made independently of any initiative by MPs or other organisations. BCAP's consultation document identifies the harm against which its proposed rule seeks to protect and the proposed approach is in keeping with BCAP and the ASA's general approach to the omission of key information from advertisements. Advertisers that do not omit that information and work within the spirit of the Code will not be affected adversely by the introduction of the proposed rule. |
| 44 | Christian Concern | Advertisements for abortion are likely to be in breach of section 11.21 of the BCAP Code which does not permit the advertisement of medical products or services available only on prescription. Abortion is likely to fall within this category as it is similarly not available on demand. | BCAP Code rule 11.21 states: "Advertisements for these are not acceptable: medicinal products or medical treatments available only on prescription." BCAP's proposal relates to the advertising of PCAS, not abortion directly. BCAP therefore considers that an ad for PCAS is not an advertisement for a service available only on prescription. |
| 45 | LIFE | The BCAP Code, section 8.1.3, states that "Services that offer to prescribe or treat remotely may not be advertised." It seems more than likely that many of the people who contact commercial abortion providers will be offered prescriptions and treatments remotely. Given the concerns raised above about the exposure of children to inappropriate advertisements, section 8.2.15 on "Medicines and children" is interesting: No advertisement or a medicinal product or treatment may be directed at people under the age of 16. There is no way that it can be guaranteed that under-16s will not see these advertisements. | See BCAP's response 44. BCAP Code rule 11.24 states "No advertisement for a medicinal product or treatment may be directed at children. See also Section 5: Children and Section 32: Scheduling." BCAP does not consider that an advertisement for PCAS, which offer a range of services, constitutes an advertisement for a medicinal product or treatment so does not therefore consider that BCAP's proposal will breach 11.24. BCAP considers that the scheduling provisions in the Code that encourages broadcasters to ensure they take care when scheduling advertisements that might be unsuitable for children or young persons or the audience of religious programmes or for broadcast around sensitive programming or news items, offers sufficient protection for younger |

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| | | | audiences. Furthermore, the bodies which clear television and radio advertisements (Clearcast and the RACC respectively) have the discretion to impose a timing restriction if they consider an advertisement unsuitable for children due to its content. |
| 46 | CARE; CARE Confidential; Christian Concern and The Christian Institute | BCAP's proposal would trivialise the seriousness of abortion and undermines the message that abortion is a serious procedure. The practice of abortion remains highly controversial in society, and advertising is not the appropriate medium for this procedure | BCAP's proposal relates to the advertisement of PCAS, not abortion. BCAP does not consider that its proposal to expand the types of PCAS that can advertise on television and radio will trivialise the implications of termination. The general provisions of the Code will apply (i.e. that advertisements must not mislead, harm or be likely to offend audiences.) |
| 47 | The Christian Institute | We are concerned that the serious nature of abortion will be underplayed. As the Minister for Health has said, abortion is not a form of contraception. Yet abortion adverts are in danger of portraying abortion as an easy, socially acceptable 'quick-fix' solution to failed contraception which denies the often traumatic consequences and downplays the controversial nature. Commercial abortion adverts have the potential to create an approach to sexual activity that is at odds with the will of Parliament. | See BCAP's response 46. |
| 48 | The Society for the Protection of the Unborn Child (SPUC) | Allowing commercial PCAS to advertise on television immediately treats abortion 'services' as if they were like any other service. Allowing advertisements for organisations whose aim and primary function is providing abortions is equivalent to allowing advertising for abortion itself. | See BCAP's response 46. |
| 49 | Association of Catholic Women | The consultation process is flawed because BCAP has not declared the interests of its members in the outcome of the proposals, compromising the underlying premise of the consultation that BCAP is a neutral party. | In 2004, Ofcom contracted out the regulation of broadcast advertising to BCAP and the ASA. BCAP has a duty to write and review the UK Code of Broadcast Advertising. BCAP's aim is to ensure the advertising Code prevents advertisements from being misleading, causing harm or offence, and breaching the boundaries of taste and decency. Its members include representatives from the advertising and marketing industry with an interest in broadcast advertising: advertisers, agencies and television and radio broadcasters. BCAP members work together to ensure the integrity of broadcast advertising. The co-regulatory regime has all-party support and enjoys widespread acceptance of its role in protecting the consumer. BCAP is aided in its work by the Advertising Advisory Committee, a consumer panel created to add a consumer perspective to BCAP's work. The system is structured so that it does not operate in an unfair or anti-competitive manner. BCAP discharges its functions in an open and transparent manner and a full list of BCAP and AAC members can be found here . |

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| 50 | The Christian Medical Fellowship | <p>BCAP claims (p14) that 'maintaining the rule could have an adverse social impact in so far as it would prevent consumers from being offered legally available services and would preclude them from learning of those services in a medium which might be of appeal to them.' This is highly disingenuous at best, and utterly wrong at worst. There is no evidence to substantiate the claim that not expanding abortion advertising would prevent women from being offered abortion services and it a misrepresentation of the law to imply that abortion is legal on request.</p> | <p>See BCAP's response 11.</p> <p>BCAP considered it necessary as a part of its assessment of the impact of its proposal to consider the consequences of not intervening. BCAP acknowledges in its Impact Assessment that it is difficult to quantify how many PCAS are currently prevented from advertising as a result of the existing rules. BCAP does, however, consider that the existing rules may preclude women from being offered a full range of legally available PCAS in a medium that may be of more appeal to them. BCAP did not suggest that the existing rules restricted women from information about abortion services entirely and its comments only relate to the availability of a range of PCAS in broadcast advertising.</p> |
| 51 | The Christian Medical Fellowship | <p>When assessing the impact of this proposal (p11), BCAP fails properly to address the likelihood that expanding advertising to commercial organisations will lead to a worsening of the situation of already very high abortion levels. We do not believe that it is of interest to anyone in society (except abortion providers) to generate an increase in the number abortions nor to shift more abortions from the public to the private sector.</p> <p>Society should be aiming to reduce the numbers of abortions and we fail to see how this proposal will have anything but the opposite effect. A significant proportion of the public want to see a serious restriction in the numbers of abortions in the UK and Health Secretary Anne Milton has described a reduction in abortion rates as being the government's 'absolute priority'. This proposal also treats abortion in much the same way as contraception. In our view the challenge is less about easier abortion provision but more about treating abortion as the serious procedure that it is and not trivialising it further.</p> | <p>BCAP's proposal relates to the advertisement of PCAS, not abortion. BCAP acknowledges in its Impact Assessment that it is a potential consequence of its proposal that there will be an increase in the number of people availing themselves of the advice provided by those services.</p> <p>BCAP notes those services are legally available and do not consider its role to be to favour one product or service over another.</p> <p>See also BCAP's response 46.</p> |
| 52 | The Christian Medical Fellowship | <p>The consultation paper (p13) suggests that the majority of 27,000 previous responses registering an in-principle objection to abortion advertising generally, or who misunderstood the original proposals, should carry less weight (or be ignored? It is unclear how these responses will be treated). However if respondents clearly do not support advertising in general for abortion they cannot logically be ignored when the issue is about whether to expand advertising to commercial abortion providers, even if they do not use the correct wording. It is quite clear that their responses will be the same, whether or not they have responded to the specific question wording. The suggestion on p13 implies that BCAP are deliberately seeking to ignore or marginalise responses that do not agree with their proposals.</p> | <p>BCAP has been clear throughout the Consultation Document that the responses to its 2009 consultation will not, and have not, been dismissed or ignored. BCAP does, however, consider that a number of respondents misunderstood its proposals and has sought to clarify its proposals to facilitate further responses on the specific proposed changes. Page 16 of the Consultation Document states:</p> <p>"respondents to the 2009 consultation may be assured that BCAP will reconsider the comments they made then on previous proposals."</p> <p>BCAP stands by that statement and has attached a summary of those responses to this evaluation document.</p> |
| 53 | Family Education Trust | <p>We note that Article 10(2) of the European Convention on Human Rights (ECHR) provides for a restriction on freedom of expression 'for the protection of health or morals'. In view of the long-term medical problems frequently experienced by women who have undergone an abortion, a restriction on advertising post-conception services that include the provision of abortion on television or radio is required.</p> <p>Article 10(2) of the ECHR also provides for a restriction on freedom of expression 'for the protection of the reputation or the rights of others'. Since abortion involves removing from the unborn child the fundamental right to life, abortion providers should not have the freedom to advertise their service on television or radio.</p> | <p>BCAP has carefully considered the implication of Article 10 (2) of the European convention on Human Rights. As detailed in the Consultation Document, BCAP takes the view that restrictions on freedom to advertise should only be those prescribed law and the necessary protection of health and morals. BCAP considers that the offence taken by some members of the audience is not a sufficient reason to prohibit a category of advertising. BCAP further notes that the protection of morals is already covered by the BCAP Code in its general rules on offence.</p> |

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| 54 | LIFE | A related serious concern is that, with the proliferation of TV on demand services, which generally lack strong age-filters, there seems to be no genuinely effective way of preventing inappropriately-aged children from viewing the advertisements. Many parents – not just those who object to abortion in principle – are reluctant to have their children, possibly quite young children, exposed to such controversial adult issues. It is much more respectful of parental autonomy over the family to limit such exposure, especially given the government’s recent recognition of the problems of children’s heavy media exposure in the Bailey report. | BCAP considers that broadcasters and advertisers will need to carefully consider the scheduling of their advertisements as stated in section 32 of the BCAP Code which informs broadcasters to take “special care when scheduling advertisements that might be unsuitable for children or young persons or the audience of religious programmes or for broadcast around sensitive programming.” The bodies which clear television and radio advertisements (Clearcast and the RACC respectively) have the discretion to impose a timing restriction if they consider an advertisement unsuitable for children due to its content. BCAP therefore considers that the existing provisions for the scheduling of advertisements address the concern the respondent raises. |
| 55 | Mediawatch uk | We consider the rule which permits radio advertising only by those Family Planning Centres with local authority or NHS approval is an important safeguard and it should be retained. | BCAP considers that the existing rule for radio advertisements, which requires family planning centres to be approved by a Local Health Authority, the Central Office of Information, or another appropriate NHS body, at present prevents faith based organisation such as The Good Counsel Network and the Brixton Advice Centre from advertising. BCAP agrees with the respondent that listeners require adequate protection from services which offer personal advice so proposes to require PCAS that advertise on radio to demonstrate they have ‘suitable credentials’ under Code rule 11.9. |
| 56 | Cornwall’s Community Standards Association | The rule allowing advertising only of family planning centres with local authority or NHS approval, is important and should be kept | See BCAP response 55. |

Responses to BCAP’s original proposal

This is a summary of significant points made for and against BCAP’s original proposal on PCAS. BCAP and Ofcom will take these comments into account when they determine if and in what the form the proposed rule is to be introduced in the UK Code of Broadcast Advertising.

Summary of responses in favour of the previous version of BCAP’s proposal:

- Advertisements for post-conception advice services will provide valuable information to those who may not be able to access it by other means.
- Advertisements for post-conception advice services will provide valuable information to vulnerable women.
- Post-conception advice services & abortion are legally available and should be entitled to advertise.
- Women need relevant information at an early stage.
- Welcome the commitment to follow through on recommendations of the Report of the House of Commons Science and Technology Committee on the Scientific Developments Relating to the Abortion Act 1967.

- Anti-choice organisations not only delay women who are considering or seeking abortion services but in some case mislead women with false information about abortion, including making exaggerated or false claims about the risks associated with abortion. This does not simply delay women accessing abortion services but can actually deter women from seeking an abortion thereby curtailing their ability to make their own choices.
- The proposals are in the interests of the safety, health and well-being of all women and children in our society.
- There is no legitimate reason why those who provide this basic healthcare service, to which women have a fundamental right to access, should be prevented from advertising their services. Women have been able to access safe and legal abortions from the NHS or privately for over 40 years.
- It is important to take a responsible attitude towards teenage sexual behaviour in light of teen pregnancy and STD rates.
- Women are entitled to know the type of organisation from whom they are seeking help.
- Permitting such advertisements on television and radio could provide valuable unbiased information to people of all ages living in communities where contraception and termination (and sexual health in general) are not discussed for cultural or religious reasons. Young people may not be getting the information they need from their schools and people of all ages may be getting it weighted with (religious) moral prejudice from their families and communities.
- It is critical that advertisements for post-conception advice services should be explicit about whether or not they refer women for abortion. This is particularly the case with teenagers who sometimes present later into pregnancy than women of other age groups, and sometimes lack the skills and knowledge to discern the difference between post-abortion services and can find themselves facing later and more complicated abortion procedures due to unnecessary delays caused by this confusion.
- There is no evidence to suggest family planning and abortion information and counselling cause serious offence to viewers or listeners in this country. We believe that a small, vocal minority of those who are opposed to both contraception and abortion make these claims to give validity to their wish to ban both, but never offer evidence of such offence among the public. It is possible to be personally opposed to abortion but also recognise that it will happen in spite of such views and support the right of others to safe services.

Summary of responses against BCAP's proposal:

- BCAP's proposal will encourage promiscuity among young people and divorces sex from mature relationships. Any reduction in teenage pregnancy will only come about when society promotes the message of abstinence and self-control.
- This proposal is not the right way to improve sexual health.
- Such subjects should be dealt with at school and by parents.
- BCAP's proposal will promote abortion as a means of birth control.
- Advertisements for such services will cause serious offence to disabled people.
- Advertisements for such services will cause distress to women who are incapable of having children.
- There should not be a competitive market in the provision of abortion services.
- There is no evidence provided for the claim that pregnancy advisory services delay women accessing abortion. Pregnancy advisory services always refer women straight to their GP or a Family Planning Centre if a woman wishes to have an abortion.

- Those organisations wishing to promote healthy alternatives to abortion will not have a level playing field as their funding will be unable to match the money spent by the organisations promoting abortion advice and condoms.
- This is too serious a moral issue to be advertised in this commercial setting.
- The law in the UK does not permit abortion on demand, and there is no “right” to have an abortion. Abortion is illegal in the United Kingdom unless two doctors agree that the woman satisfies specific exemption criteria as laid out in the 1967 Abortion Act (as amended). To allow broadcast advertising of post-conception pregnancy advisory services which refer women for abortion would be to send a profoundly misleading message about the basis on which abortion is legally available.
- BCAP’s proposals are in conflict with the Audio Visual Media Services principle that audiovisual commercial communications shall not cause moral detriment to minors or encourage behaviour that is prejudicial to health or safety.
- BCAP’s proposal is in conflict with the Code’s own provisions on political and controversial matters.
- The BCAP TV Code prohibits medical treatments and medicinal products available on prescription.
- To insist on a mandatory warning in advertisements for non-referring organisations is in effect benefitting abortion-referring organisations.
- The context, medium and impact of TV are highly different to that of radio.
- Pre-conception and post-conception services should be accessed by medical referral only.
- Abortion advertising would cause serious and widespread offence to UK citizens holding sincerely held religious beliefs on abortion.
- Abortion providers mislead women into thinking that abortion is a quick-fix solution to a problem pregnancy with no harmful consequences.
- There are enough avenues open for women to seek out an abortion provider. Targeting them through the television when they are vulnerable is not the answer to our high abortion rate.
- Abortion is not legal in Northern Ireland and under its criminal law; it is illegal to advertise abortion providers in booklets, yellow pages etc. Television would also come under this aspect of the law.
- The advertising of such services will further trivialize the matter given that no serious treatment of the issues involved can be dealt with in a short advertisement. Advertising, rather, is typically aimed at increasing the market for services and therefore very likely to lead to a worsening of the situation of high abortion levels.
- There will be some services which are not anti-choice but which are unable to refer women for abortion because of the nature of their service, for example because they are nurse-led. There is a risk that requiring advertisements to state that these services do not refer for abortion could give the false impression that they are opposed to abortion or offer a more restricted range of assistance to women.
- Post-conception advice services should not be advertised on television if those advertisements are going to contain mention of ‘abortion’.
- In line with BCAP’s proposal, advertisements for those services which can refer women for a termination should be made to include a similar statement if they do not offer counselling to women who choose to keep their babies.

- Rather than require providers of post-conception pregnancy advice services to explicitly state if they do not refer women directly for abortion, there is a more pressing need for abortion providers to state the risk of post-abortion medical complications and psychological trauma when advertising their services. This would parallel the situation in the financial sector, where, such advertisements must include a warning that alerts the audience to the risks involved.
- Any woman considering abortion will be sufficiently motivated and will easily be to find information about abortion providers from the wide range of sources presently available – internet, print advertisements, women’s magazines, yellow pages, radio etc.
- All post-conception advisory services should be required to make a statement about their referral practices. i.e. whether they will/will not refer women for a termination.