

SECTION 10: PROHIBITED CATEGORIES

Question 48:

- i) Given BCAP's policy consideration, do you agree that unregulated collective investment schemes should be a prohibited category of broadcast advertisement, with the caveat that, if a broadcaster can demonstrate compliance with COBS 4.12, BCAP may grant an exemption? If your answer is no, please explain why.
- ii) Do you agree that rule 10.1.9 (collective investment schemes) should be included in the new BCAP Code? If your answer is no, please explain why.

<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; British Retail Consortium (Consumer Affairs Policy Group); Charity Law Association;</p> <p>2 organisations requesting confidentiality</p>	<p><i>Summaries of significant points:</i></p> <p>The respondents listed in the left hand column agreed with BCAP's proposal.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP welcomes the respondents' comments.</p>
<p><i>Responses received against BCAP's proposal:</i></p>	<p><i>Summaries of significant points:</i></p>	<p><i>BCAP's evaluation of those points and action points:</i></p>

None		
<p>Question 49:</p> <p>i) Given BCAP's policy consideration, do you agree that the ban on TV and radio advertisements for betting tips should be relaxed? If your answer is no, please explain why.</p> <p>ii) Given BCAP's specific policy objectives to protect under 18s and the vulnerable and to prevent misleading and irresponsible claims in betting tipster advertisements, do you agree that BCAP's proposed rules are necessary and easily understood? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Association for Interactive Media & Entertainment; Square1 Communications</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>AIME and Square1 said:</i> We agree with the proposal to remove the ban but believes the rules should be less prescriptive with more use made of Help Notes or Guidelines.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP considers it important to afford protection to the vulnerable by replacing the ban with content and scheduling rules. It considers that Guidance Notes would not afford that same level of protection.</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>Archbishops' Council of the Church of England; Charity Law Association;</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Archbishops' Council said:</i> No. In February 2008, the Church of England's General Synod carried a motion expressing its 'grave concern' about the growth in gambling. An increase in gambling opportunities, and further steps towards normalising gambling, risks an</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP weighed up, on the one hand, the protection the prohibition affords to the audience and, on the other, the restriction on betting tipsters' freedom to advertise on TV and radio.</p> <p>The main justification for the prohibition on</p>

<p>Christian Concern for our Nation; PhonepayPlus;</p> <p>An organisation requesting confidentiality;</p> <p>3 individuals</p>	<p>increase in problem gambling. In Great Britain today, there are around a quarter of a million problem gamblers. Lifting the prohibition on broadcast advertising for tipsters – especially during difficult economic times – risks broadening the numbers drawn into gambling more than they can afford, lured by the prospects of easy wins; it also risks deepening the problems faced by those already hooked on betting. Indeed, the timing of the proposal, as the country faces the worst economic situation for many years – and more than 2.22 million people are unemployed (as at 12 May 2009) – seems extraordinarily ill-judged.</p> <p>Because of the inherent nature of gambling, we have considerable apprehension about the effects of liberalising the law, and question whether the carefully-devised safeguards will achieve their intended purpose of preventing the growth of problem gambling, with its attendant damage to individuals and families.</p>	<p>broadcast advertisements for betting tips and the now lapsed prohibition on broadcast advertisements for betting and gaming products was likely to have been the same: both prohibitions were intended, in line with Government policy, not to stimulate demand for those products through the power of broadcast media. (A relaxation of that policy was granted for TV text and interactive television broadcast services because those have typically been regulated with a lighter touch, in part to stimulate development of those nascent technologies through more avenues of potential advertising revenue.) In September 2007, however, with the introduction of the Gambling Act, the prohibition on broadcast advertisements for betting and gaming products was lifted and new rules ensured that advertisements for gambling products are responsible by protecting children and the vulnerable. Because the Gambling Act does not cover betting tipsters, the ban on advertisements for betting tips was not reviewed when the Act was introduced and remains in place.</p> <p>The ban on broadcast advertisements for betting tips does not stem from law, and the policy of not stimulating demand for gambling through broadcast advertisements is no longer relevant. BCAP considers that advertisements for betting tips are not necessarily, in and of themselves, misleading, harmful or offensive and the fact that</p>
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	<p><i>2. An individual said:</i> No, because it could encourage people to get further into debt in an already unstable financial environment</p> <p><i>3. Charity Law Association said:</i> Certain charities may have concerns about this relaxation. For example, Rule 21.2 puts in place some protection for under 18s but they may still be exposed to betting tips as there is no proposed restriction on scheduling, and there is no evidence of protection for vulnerable adults.</p> <p>It would also need to be made clear in the advertisement that the tip is no more than the best guess of the tipster and no guarantee can be made that the tip will come to pass. Further, tipsters should rely on some degree of knowledge of the sport concerned, rather than on pure guesswork.</p>	<p>some betting tipster services are scams and the industry is not subject to dedicated regulation does not warrant an outright broadcast advertising ban.</p> <p>In place of the ban, BCAP proposed to introduce a new section of rules, taken from existing requirements on TV Text, to afford protection to the vulnerable and under 18s from misleading and harmful betting tipster ads.</p> <p>2. See point 1, above.</p> <p>3. New rule 32.2.3, in the Scheduling section, would afford protection to the under 18s:</p> <p>32.2 These may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to audience below the age of 18:</p> <p>32.2.3 betting tipsters</p> <p>The new rules in the Betting Tipster section are</p>
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	<p><i>4. CCfoN said:</i> No, we would strongly disagree with the rules on betting tipsters being relaxed. There is no legal imperative to allow this and we agree with the remarks made in point 10.35 of the consultation that this could lead to scams. This could also increase gambling addiction and result in complaints from poor tipsters predictions.</p> <p>The best way to protect the under 18s and the vulnerable would be to retain the ban on betting tipster advertising.</p> <p><i>5. An individual said:</i> I disagree. As a professional counsellor I am aware of the heart-ache and severe social and psychological damage caused by addictive and/or compulsive behaviour, as gambling so often is, and the shame and material hardship associated with debt and/or mismanagement of household finances. Spouses, partners and children of gamblers are always adversely affected. I</p>	<p>intended to provide protection to under 18s and vulnerable adults from misleading or harmful betting tipster ads. The respondent has not provided an explanation of how those rules are inadequate to provide that protection; BCAP is content that those rules will secure the intended aim.</p> <p>4. See point 1, above.</p> <p>5. See point 1, above.</p>
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therefore consider that any advertising which facilitates gambling is harmful.

6. An individual said:

No. The growth of gambling as a business causes considerable harm and betting tips are surely going to increase the harm.

7. PhonepayPlus said:

[In answer to question 49ii]:

Whilst this is not specific to premium rate services as a consideration, we would highlight that proposed rule 21.3 may cause confusion about the advertising of specific outcomes to an event where money back is guaranteed (e.g. “if England draw 0-0 we’ll refund your original stake!”).

In respect of proposed rule 21.4, we would ask what evidence or benchmark broadcasters will use to satisfy themselves that a recorded message is brief. The 11th edition of the PhonepayPlus Code of Practice would require that such a service was not unnecessarily prolonged or delayed, but would not set a limit as to how long a recorded message could be, providing the information contained within it was relevant.

8. An organisation requesting confidentiality said:

6. See point 1, above.

7. BCAP considers the rule is clear: it would prevent ads by betting tipsters from stating that they will refund the cost of the tip.

New rule 21.4, as other rules in the Code, require broadcasters to satisfy themselves that an ad complies with the Code without being prescriptive about how they should satisfy themselves. Because complaints about broadcast ads are upheld against the broadcaster, the rule needs to speak to broadcasters. New rule 21.4 sets requirements for update-line services that complement a mainline service; for that reason, BCAP considers the rule is suitable. It would not require broadcasters to satisfy themselves that messages on mainline services are brief.

8. See point 1, above.

	No – gambling is damaging so rules shouldn't be relaxed.	
<p>Question 50:</p> <p>i) Given BCAP's policy consideration, do you agree that the ban on TV advertisements for private investigation agencies should be relaxed? If your answer is no, please explain why.</p> <p>ii) Given its specific policy objective, do you agree that BCAP's proposed rule 29.2 (private investigation agencies) is necessary and easily understood? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; ASDA; Charity Law Association;</p> <p>An organisation requesting confidentiality;</p> <p>An individual</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>An individual said:</i> Yes if the agencies are part of a respectable and accountable accreditation body</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. New rule 29.2 would ensure that the advertiser could demonstrate suitable and relevant credentials.</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>Christian Concern for</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>CCfoN said:</i> No, the BCAP should maintain standards and not</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. New rule 29.2 would not allow any private investigation agencies to advertise if they could</p>

our Nation	allow such advertising. The present ban should be maintained. There is no independent recognised regulation of such agencies in order to ensure standards and the BCAP should not undertake such a task.	not demonstrate suitable and relevant credentials, such as affiliation to a body that has systems for dealing with complaints and for taking disciplinary action.
<p>Question 51: Given BCAP’s policy consideration, do you agree that proposed rule 29.1 (private investigation agencies – radio central copy clearance) should be included in the proposed BCAP Code? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP’s proposal from:</i></p> <p>Advertising Association; ASDA; Charity Law Association;</p> <p>An organisation requesting confidentiality</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Charity Law Association said:</i> Yes we agree although it is unclear what is meant in the rule by “centrally cleared”. This should be expressly defined and stated.</p>	<p><i>BCAP’s evaluation of those points and action points:</i></p> <p>1. BCAP considers the meaning of the term “centrally cleared”, which is used throughout the Code, is clear: it requires ads to be approved for broadcast by the RACC for radio or Clearcast for TV.</p>
<p><i>Responses received against BCAP’s proposal:</i></p> <p>Christian Concern for our Nation</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>CCfoN said:</i> No, because private investigation agency advertising should also be banned for radio.</p>	<p><i>BCAP’s evaluation of those points and action points:</i></p> <p>1. In the absence of an explanation for the respondent about why it considers the radio ban should remain, BCAP is content with the reasoning set out in the consultation document to</p>

		remove the ban.
<p>Question 52:</p> <p>i) Given BCAP’s policy consideration, do you agree that the ban on TV advertisements for commercial services offering individual advice on consumer or personal problems should be relaxed? If your answer is no, please explain why.</p> <p>ii) Given BCAP’s specific policy objectives, do you agree that BCAP’s proposed rule 26.2 (services offering individual advice on consumer or personal problems) is necessary and easily understood? If your answer is no, please explain why.</p>		
<p>Responses received in favour of BCAP’s proposal from:</p> <p>Advertising Association; Archbishops’ Council of the Church of England; ASDA; Association for Interactive Media & Entertainment; Charity Law Association; Square1 Communications;</p> <p>3 organisations requesting</p>	<p>Summaries of significant points:</p> <p><i>1. Charity Law Association said:</i> Agree, so long as adequate safeguards are in place. It may be helpful for the code to define what "consumer or personal problems" are.</p> <p><i>2. An organisation requesting confidentiality said:</i> We agree although wish to comment that</p>	<p><i>BCAP’s evaluation of those points and action points:</i></p> <p>1. In the consultation document, BCAP understood examples of such services could include a wide variety of professions including those offering hypnosis, psychoanalysis, weight-loss procedures, debt management, life-coaching and companies offering financial and relationship advice. It decided, however, not to include a definition of “services offering individual advice on consumer or personal problems” because a list of those services could not be exhaustive and might unintentionally suggest that some services that ought to be covered by the rule are not. BCAP considers it is preferable to provide scope for interpretation.</p> <p>2. Ads for psychic services are dealt with under the Faith, Religion and Other Equivalent Systems</p>

<p>confidentiality</p>	<p>promotions for psychic services do not fall under this category.</p> <p><i>3. The Archbishops' Council said:</i> The potential for beneficial services (including ones offered for a fee, i.e. on a commercial basis) to reach new audiences may outweigh the need for an outright prohibition on TV. Most of the problematic areas (debt management, in particular) are well regulated through other aspects of the Codes, and this proposal appears to introduce greater consistency between media. The proposal would also allow non-charitable organisations that operate on a deliberately low-cost basis (certain relationship counselling services, credit unions and co-operatives etc) the opportunity to promote their services in a regulated environment.</p> <p><i>n.b. that the Archbishops' Council raised in response to question 52 its objection to allowing ads for post-conception advice services; that objection shall be dealt with under the Medicines section.</i></p>	<p>of Belief section.</p> <p>3. No comments.</p>
<p><i>Responses received against BCAP's proposal:</i></p> <p>Christian Concern for our Nation</p>	<p><i>Summaries of significant points:</i></p> <p><i>1. CCfoN said:</i> No this is an area where the young and vulnerable are most at risk and the ban on advertisements in this area should continue.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. The present TV prohibition is not based on law and, in BCAP's opinion, is disproportionate. BCAP considers that companies offering advice for any kind of consumer or personal problem</p>

	<p>No amount of credentials will make such advertising suitable or appropriate. The BCAP has to consider the audio-visual impact of TV for its audience, protect the under 18, and prevent harmful advertising.</p>	<p>should have to demonstrate to the broadcaster that they have systems in place to ensure consistency, probity and accountability of service to afford the necessary degree of protection to the audience. BCAP is content that its new rule affords that protection.</p>
<p>Question 53: Given BCAP's policy consideration, do you agree that proposed rule 26.1 (services offering individual advice on consumer or personal problems – radio central copy clearance) should be included in the proposed BCAP Code? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Archbishops' Council of the Church of England; ASDA; Charity Law Association;</p> <p>2 organisations requesting confidentiality</p>	<p><i>Summaries of significant points:</i></p> <p>The respondents listed in the left hand column agreed with BCAP's proposal.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>BCAP welcomes the respondents' comments.</p>
<p><i>Responses received against BCAP's proposal:</i></p>	<p><i>Summaries of significant points:</i></p>	<p><i>BCAP's evaluation of those points and action points:</i></p>

<p>Christian Concern for our Nation</p>	<p>1. <i>CCfoN said:</i> No, the advertisements should not be allowed in the first place</p>	<p>1. See point 1 in response to Question 52, above.</p>
<p>Question 54:</p> <p>i) Given its policy consideration, do you agree with BCAP’s proposal to relax the present prohibition on TV advertisements for pornography products and allow them to be broadcast on encrypted elements of adult entertainment channels only? If your answer is no, please explain why.</p> <p>ii) Given its specific policy objective, do you agree that BCAP’s proposed rules are necessary and easily understood? If your answer is no, please explain why.</p> <p>iii) Given BCAP’s policy consideration, do you agree that advertisements for R18-rated material should be permitted to be advertised behind encrypted elements of adult entertainment channels only but that the content of those advertisements themselves must not include R18-rated material or its equivalent? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP’s proposal from:</i></p> <p>Advertising Association; British Board of Film Classification; Charity Law Association (question 54iii) Family Planning Association;</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>FPA said:</i> fpa welcomes the proposals to restrict advertising of pornography products to encrypted elements of adult entertainment channels. fpa is aware that some young people, particularly young men, are accessing pornography as a source of information about sex and sexuality in the absence of comprehensive sex and relationships education.</p> <p>2. <i>BBFC said:</i></p>	<p><i>BCAP’s evaluation of those points and action points:</i></p> <p>1. No comments.</p> <p>2. BCAP has decided not to implement the</p>

<p>An individual</p>	<p>We have considered this proposal in the light of Section 12(1) of the Video Recordings Act which covers the supply of R18 material. Having taken legal advice, we recommend that to be safe and avoid falling foul of the VRA, advertisements for video recordings classified R18 should carry the statement “<i>This DVD is only available at licensed sex shops</i>”.</p> <p>We also suggest that there should be no advertising of any pornographic video recordings which have not been classified by the BBFC. We of course remove any material which is obscene from such works before they are distributed. This is relevant to the proposed rule 10.1.6. We also remove other illegal material from these works, including content which contravenes the Video Recordings Act, the Protection of Children Act 1978, The Sexual Offences Act 2003 and the Criminal Justice and Immigration Act 2008.</p>	<p>BBFC’s suggestion of requiring ads for R18 material to carry the statement “This DVD / video is only available at licensed sex shops”. BCAP considers that an ad for an R18 DVD (made available to consumers only through a licensed sex shop in compliance with the Video Recordings Act 1984) would not need to carry such a statement to satisfy the Act. Similarly, it does not require ads for alcohol products to carry a statement that those products can only be purchased from licensed sellers. For the sake of consistency with the approach taken on the advertising of, for example, age-restricted products, and because it considers ads do not need to carry that statement to comply with the law, BCAP has decided not to require ads for R18 products to carry the statement suggested by the BBFC.</p> <p>BCAP considers that the BBFC’s second suggestion – that is, prohibiting ads for pornographic works that have not been classified by the BBFC – could go beyond the law. The Video Recordings Act does not, for example, require ads for films streamed over the Internet as video on demand to be classified by the BBFC. BCAP has instead decided to refer to the BBFC, its classification responsibilities and the R18 category in the Code’s Pornography Definition. The revised Definition reads:</p> <p>Definition:</p>
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<p><i>Responses received against BCAP’s proposal:</i></p> <p>Archbishops’ Council of the Church of England; Association for</p>	<p><i>Summaries of significant points:</i></p> <p>BCAP received 43 responses against its proposals outlined in question 54. For conciseness, BCAP here summarises recurring themes from those responses and states who made those points.</p>	<p><i>BCAP’s evaluation of those points and action points:</i></p>

<p>Interactive Media & Entertainment; Charity Law Association; Christian Concern for our Nation; The Christian Institute; Cornwall's Community Standards Association; Family Education Trust; Harvan Europe; mediamarch; mediawatch-uk; Oxygen8; Peripatos; Square1 Communications; Union of Catholic Mothers; Union of Catholic Mothers Rushden St Peter's Foundation;</p> <p>2 organisations requesting confidentiality;</p> <p>27 individuals</p>	<p><i>1. Pornography degrades women and those who appear in it</i></p> <p><u>Raised by:</u> Archbishops' Council; The Christian Institute; Cornwall's Community Standards Association; Family Education Trust; Union of Catholic Mothers; Union of Catholic Mothers Rushden St Peter's Foundation; 16 individuals</p>	<p>1. In making its proposal, BCAP weighed up, on the one hand, the protection afforded to the audience by the prohibition on TV ads for pornography products and, on the other, an advertiser's desire to impart information and the desire of a suitable audience to receive that information. BCAP considered the outright prohibition to be disproportionate given that there is no legal imperative for it to remain.</p> <p>BCAP acknowledges the respondents' opinion on the moral impact of pornography, but notes that the manufacture and sale of pornography products and materials is not illegal in the UK, although there are restrictions in their supply to protect under-18s. Similarly, the advertising of pornography products is not prohibited by law, and in making its proposal, BCAP considered a prohibition was not necessary to protect the audience, particularly under 18s, from harmful or offensive material; it instead proposed to allow ads for those products behind encryption, meaning a general audience would not come across those ads. The new rules would ensure that there is a mandatory PIN protected encryption system or equivalent that ensures only adults, and those authorised to view such channels, can access them.</p> <p>Audiences watching encrypted adult</p>
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	<p><i>2. Pornography degrades those who use it</i></p> <p><u>Raised by:</u> Archbishops' Council; The Christian Institute; Union of Catholic Mothers; 11 individuals</p> <p><i>3. Pornography damages love, marriage, loving sexual congress and the family unit</i></p> <p><u>Raised by:</u> Archbishops' Council; Cornwall's Community Standards Association; Family Education Trust; Mediamarch; mediawatch-uk; Union of Catholic Mothers Rushden St Peter's</p>	<p>entertainment programmes are unlikely to be harmed or offended by products of a similar nature to the editorial content of the channel. BCAP considers that it would be disproportionate to maintain a prohibition on ads for products similar to material that may legitimately be broadcast in editorial time while complying with the requirements of the Ofcom Broadcasting Code, including rules on the prevention of harmful and offensive material and the protection of the vulnerable and the under 18s.</p> <p>2. See point 1, above.</p> <p>3. See point 1, above.</p>
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	<p>Foundation; 13 individuals</p> <p><i>4. Pornography glamorises / normalises unhealthy attitudes to sex and activity that is not universally regarded as acceptable</i></p> <p><u>Raised by:</u> Archbishops' Council; Charity Law Association; Family Education Trust; mediawatch-uk; 3 individuals</p> <p><i>5. Pornography can lead to sexual crimes such as rape, assault and paedophilia. Pornography can be linked to organised crime</i></p> <p><u>Raised by:</u> The Christian Institute; Cornwall's Community Standards Association; Family Education Trust; Mediamarch; mediawatch-uk; Union of Catholic Mothers; Union of Catholic Mothers Rushden St Peter's Foundation; 13 individuals</p>	<p>4. See point 1, above.</p> <p>5. See point 1, above.</p>
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6. Children often know their parents' / guardians' PINs so, even by limiting broadcast of ads for pornography to encrypted elements of adult entertainment channels, children are not adequately protected. Pornography can harm children's moral development, for example by instilling lasting negative or traumatic emotional responses to sex, encouraging earlier incidence of first sexual intercourse, increasing the risk of STIs and developing sexual compulsions

Raised by:

Archbishops Council;
Charity Law Association;
CCfN;
Cornwall's Community Standards Association;
Family Education Trust;
Mediamarch;
mediawatch-uk;
20 individuals

6. Many respondents cited what BCAP said in paragraph 10.61:

Media-literacy research shows that some children are able to access and use their parents' or guardians' PINs (Personal Identification Numbers) without those adults' knowledge. Under BCAP's proposal, those children could see advertisements for pornography products. BCAP is not persuaded however that that possibility justifies maintaining the outright ban on TV advertisements for pornography products. BCAP notes that the possibility of children accessing those channels does not justify, in terms of broadcast editorial regulation, the prohibition of adult-sex content behind encrypted elements of adult entertainment channels.

BCAP had intended to draw a distinction between voluntary parental PIN controls, which research shows are often known and used by children, and mandatory PIN encryption systems, which seek to ensure users are adults and authorised to view content each time they access it. It is the latter which apply to adult entertainment channels. BCAP had also intended to say that, even in circumstances when children do manage to gain access to material broadcast on adult entertainment channels protected by mandatory PIN encryption systems, the ads that could be

	<p><i>7. It cannot reasonably be said that much of what appears on Babe channels is “pornographic” in the modern day sense of the word. Access to adult channels is already adequately controlled by a variety of methods (for example, parental PIN control, 090 call blocking and watershed timing) and any requirement to employ encryption is unnecessary, disproportionate and costly.</i></p> <p><u>Raised by:</u> AIME; Harvan Europe; Oxygen8; Peripatos; Square1; An organisation requesting confidentiality</p>	<p>broadcast under BCAP’s new rule would be no more explicit than editorial material. Those ads would be in the context of the surrounding editorial material.</p> <p>BCAP considers its new rules will provide the necessary degree of protection to children from potentially harmful or offensive material in ads for pornography products, and that they meet the obligations of the Communications Act standards objectives.</p> <p>7. BCAP considers that respondents who raised this point misread the proposal. Their responses imply that they believed it related to “Babe TV”-style channels (adult-chat Participation TV channels, usually predicated on the use of PRS), which it did not.</p> <p>The PRS Section contains rules more relevant to those respondents’ comments, so they are instead evaluated there.</p>
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	<p><i>8. It is not clear to what the rules refer because there is no definition of “pornographic products” provided</i></p> <p><u>Raised by:</u> Oxygen8; Peripatos; An organisation requesting confidentiality; An individual;</p> <p><i>9. The term “centrally cleared” needs to be explained</i></p> <p><u>Raised by:</u> Charity Law Association</p> <p><i>10. The proposed relaxation is not within the public interest; those who wish to find adult channels can do so easily enough</i></p> <p><u>Raised by:</u> Charity Law Association; An individual</p>	<p>8. BCAP decided against trying to define “pornographic products” because it considered it would be impractical and legally questionable to do so. The new rules refer instead to “products coming within the recognised character of pornography”. BCAP considered it important to provide the ASA the scope to decide when it should and should not apply the rules. BCAP considers that the existing prohibition would prevent, for example, DVDs containing the kind of editorial material broadcast on encrypted elements of adult-entertainment channels from being advertised.</p> <p>9. BCAP considers the meaning of the term “centrally cleared”, which is used throughout the Code, is clear: it requires ads to be approved for broadcast by the RACC for radio or Clearcast for TV.</p> <p>10. The proposal did not relate to the promotion of adult channels, but rather the advertising of products on them. BCAP considered that an advertiser’s desire to impart information, and the desire of a suitable audience to receive that information, compelled it to rethink the existing prohibition.</p>
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	<p>11. <i>The proposed relaxation is illustrative of a lowering of advertising and moral standards</i></p> <p><u>Raised by:</u> CCfoN; 6 individuals</p> <p>12. <i>The proposed relaxation contradicts findings of the Byron review, which stated that there is a greater need to protect the young in relation to 12+ categories</i></p> <p><u>Raised by:</u> CCfoN</p> <p>13. <i>Pornography is addictive; users often seek increasingly harder forms of it as they become desensitised to softer forms. The proposed relaxation does not afford protection to the vulnerable</i></p> <p><u>Raised by:</u> The Christian Institute; Family Education Trust; Mediamarch; 12 individuals</p> <p>14. <i>A relaxation of the present prohibition on TV advertising of pornography would cause</i></p>	<p>11. BCAP's new rules will ensure that ads for pornography products would be permissible on encrypted elements of adult-entertainment channels only. As such, those ads would be broadcast in the context of the surrounding comparable editorial material.</p> <p>12. See point 6, above. BCAP considers its new rules will adequately protect children because ads for pornography products would be permissible on encrypted elements of adult-entertainment channels only.</p> <p>13. See point 1, above.</p> <p>14. See point 1, above. BCAP considers its new rules will adequately protect general TV</p>
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	<p><i>considerable offence to a large proportion of the general public</i></p> <p><u>Raised by:</u> Family Education Trust; mediawatch-uk; An individual</p> <p><i>15. More relaxed regulation, even behind encryption, will amount to a watering down in protection of children on mainstream TV channels</i></p> <p><u>Raised by:</u> An individual</p> <p><i>16. Is it not the case that that Obscene Publications Act subordinates 'freedom of expression' to the need to protect people's morals? BCAP's proposal seems to be based on a reversal of this arrangement of priorities.</i></p> <p><u>Raised by:</u> An individual</p>	<p>audiences because ads for pornography products would be permissible on encrypted elements of adult-entertainment channels only.</p> <p>15. BCAP's new rules will ensure that ads for pornography products are permissible on encrypted elements of adult-entertainment channels only. It did not propose to reduce the level of protection afforded to general TV audiences.</p> <p>16. BCAP did not, in making its proposal, give preference to advertisers' freedom of expression over the need to protect the audience from, for example, harm and offence. BCAP made clear that its proposal to relax the present prohibition on ads for pornography products would allow those products to be advertised on encrypted elements of adult-entertainment channels only. Such ads would be in the context of the surround comparable editorial material. It made its proposal because it considered it reasonable that subscribers to adult-entertainment channels are likely to want to see ads for products that could interest them. BCAP is content that, given the surrounding editorial material, it has not</p>
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		compromised its duty to prevent harm and offence.
<p>Question 55: Given its policy consideration, do you agree with BCAP's proposal to strengthen the present prohibition on TV advertisements for guns by prohibiting advertisements for offensive weapons and replica guns? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Charity Law Association; Christian Concern for our Nation; Cornwall's Community Standards Association; mediamarch; mediawatch-uk; Union of Catholic Mothers; Union of Catholic Mothers Rushden St Peter's Foundation;</p> <p>An organisation requesting</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>mediawatch-uk said:</i> We would first of all like to express our support for the proposal to "strengthen" the present prohibition on advertising for guns and replica guns. We believe that the portrayal of guns on television and in film is a serious matter. Any use or representation of firearms, real or replica, in any advertisement surely adds to the impression that their use is legitimate and "cool".</p> <p>Accordingly, we suggest that the BCAP should be amended and extended to preclude the use of guns or replica guns in any TV advertisement and not just those for the advertising of such articles themselves.</p> <p>2. <i>Charity Law Association said:</i> Agree, the Code cannot strongly enough prohibit advertisements for guns or weapons of any type, whether real or replica. Such advertisements are</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP welcomes mediawatch-uk's comments but would like to make clear that the proposal was to ban the advertising of replica guns and offensive weapons, not the depiction of them in ads.</p> <p>BCAP considers that to ban the depiction of weapons in ads would be disproportionate. Ads for films, for example, often depict guns and, as long as that depiction does not breach the general rules on social responsibility and offence by glamorising gun use, for example, they may do so while complying with the Code.</p> <p>2. The Violent Crime Reduction Act 2006 defines a "realistic imitation firearm" as "an imitation firearm which has an appearance that is so realistic as to make it indistinguishable, for all</p>

<p>confidentiality; 21 individuals</p>	<p>wholly offensive and should in no circumstances be permitted. There is and can be no public interest in such advertisements.</p> <p>Note that the inclusion of replica guns without further definition may prohibit the advertising of certain children's toys or for example a plastic model kit of a WW2 anti-aircraft gun.</p>	<p>practical purposes, from a real firearm and is neither a de-activated firearm nor itself an antique” (section 38). It is likely the ASA would be minded to that definition, although BCAP considers it should not be bound by it by including it in the Code: if that definition were included in the Code, the ASA could risk interpreting a legal definition differently to the Courts.</p> <p>BCAP considers that the term “replica guns” implies realistic imitation guns; BCAP does not intend the rule to prohibit the advertising of toy guns or model kits.</p>
<p><i>Responses received against BCAP’s proposal:</i></p> <p>Anglesey Shooting School; British Association for Shooting and Conservation; British Retail Consortium (Consumer Affairs Policy Group); British Shooting Sports Council; Council for Cadet Rifle Shooting; Cart Ridge Shooting</p>	<p><i>Summaries of significant points:</i></p> <p>BCAP received 97 responses against its proposals outlined in question 55. For conciseness, BCAP here summarises recurring themes from those responses and states who made those points.</p> <p><i>1. There is a wide range of legal and legitimate uses for replica guns, real firearms and other so-called offensive weapons</i></p> <p><u>Raised by:</u> Anglesey Shooting School; British Association for Shooting and Conservation; British Shooting Sports Council & Council for</p>	<p><i>BCAP’s evaluation of those points and action points:</i></p> <p>1. Because it already existed before BCAP proposed changes to the Prohibited Categories section during the Code Review, BCAP discusses respondents’ reactions to the prohibition on ads for guns in the ‘Other comments’ section of this evaluation table. It restricts here its evaluation of comments to its proposal to prohibit TV ads for replica</p>

<p>Ground; Cavendish Sporting Events Ltd; Clay Pigeon Shoot; Clay Pigeon Shooting Association; Countryside Alliance; De-activated Gun Collector's Association; FieldsportsChannel.tv; Headley Gun Club; Historical Breechloading Smallarms Association; Muzzle Loaders Association of Great Britain; National Small-bore Rifle Association; Northamptonshire Clay Pigeon Shooting Association; Phoenix Shooters Association; Sporting Targets; Shooting Times Magazine;</p>	<p>Cadet Rifle Shooting; Cart Ridge Shooting Ground; Clay Pigeon Shoot; Clay Pigeon Shooting Association; Countryside Alliance; FieldsportsChannel.tv; Headley Gun Club; National Small-bore Rifle Association; Northamptonshire Clay Pigeon Shooting Association; Phoenix Shooters Association; Sporting Targets; Shooting Times Magazine; 60 individuals</p>	<p>guns and offensive weapons.</p> <p>BCAP considers that – unlike firearms used for sporting activities, for example – there can be no legitimate use for offensive weapons (which are defined as items made or adapted to cause injury to people). BCAP considers its new prohibition, which will prevent those items from being advertised, is therefore not controversial.</p> <p>BCAP understands that there are legitimate uses for replica guns. Some respondents highlighted that there are defences, in the Violent Crime Reduction Act 2006, that allow for certain circumstances in which the manufacture, modification, selling or bringing into Great Britain of a realistic imitation firearm would not be an offence. Those defences are for the purposes of:</p> <ul style="list-style-type: none"> • a museum or gallery; • theatrical performances and rehearsals; • production of films; • production of TV programmes; • organisation and holding of historical re-enactments; and • functions that a person has in his capacity as a person in the service of the crown. <p>BCAP considers those defences are narrow and are scenarios unlikely to be of relevance to advertising. On that basis, it considers its prohibition on ads for replica guns is appropriate.</p>
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<p>77 individuals</p>	<p><i>2. By prohibiting ads for them, BCAP implies that those who legitimately use guns and replica guns are engaged in criminal activity. BCAP is ignorant of legitimate uses for guns, is discriminating against a law-abiding group of people and appears to consider those who use guns to fall in the same category as those involved in prostitution, drugs, etc. The ban will only exacerbate misconceptions about, and marginalise those who engage in, shooting sports or historical re-enactments</i></p> <p><u>Raised by:</u> Anglesey Shooting School; British Association for Shooting and Conservation; British Shooting Sports Council & Council for Cadet Rifle Shooting; Cart Ridge Shooting Ground; Countryside Alliance; De-activated Gun Collector's Association; FieldsportsChannel.tv; Northamptonshire Clay Pigeon Shooting Association; Phoenix Shooters Association; Shooting Times Magazine; 47 individuals</p> <p><i>3. The prohibitions (both current and proposed) will do nothing to prevent crime; the prohibition serves no purpose, will not prevent harmful or offensive</i></p>	<p>2. See point 1, above – not relevant to BCAP's prohibition on ads for replica guns / offensive weapons.</p> <p>3. See point 1, above. BCAP agrees that sporting firearms are not</p>
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	<p><i>advertising and is unreasonable. It is the people who use weapons illegally, rather than the weapons themselves, that are dangerous. Sporting firearms are not “offensive weapons” because they are not intended to murder or maim</i></p> <p><u>Raised by:</u> Anglesey Shooting School; British Association for Shooting and Conservation; British Shooting Sports Council & Council for Cadet Rifle Shooting; Cavendish Sporting Events Ltd; Clay Pigeon Shooting Association; Countryside Alliance; De-activated Gun Collector’s Association; Headley Gun Club; Historical Breechloading Smallarms Association; Muzzle Loaders Association of Great Britain; National Small-bore Rifle Association; Northamptonshire Clay Pigeon Shooting Association; Phoenix Shooters Association; Shooting Times Magazine; 56 individuals</p> <p><i>4. Before obtaining a firearm, a person must undergo careful checks and scrutiny. Advertised firearms could be bought only by those authorised to own one and those who use them do so within the law</i></p>	<p>“offensive weapons”.</p> <p>BCAP decided to propose a prohibition on the advertising of replicas because of the legal restrictions on selling them enshrined in the Violent Crime Reduction Act 2006.</p> <p>4. See point 1, above – not relevant to BCAP’s proposed prohibition on ads for replica guns / offensive weapons.</p>
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	<p><u>Raised by:</u> British Association for Shooting and Conservation; British Shooting Sports Council & Council for Cadet Rifle Shooting; Clay Pigeon Shooting Association; FieldsportsChannel.tv; Phoenix Shooters Association; Sporting Targets; 40 individuals</p> <p><i>5. Your basic premise as stated in 10.8 that only registered firearms dealers can sell firearms is factually wrong. Any individual with a firearm certificate can lawfully sell a firearm or ammunition to any other individual with a firearm certificate that lawfully entitles them to acquire and possess it provided that appropriate notifications are made to the police.</i></p> <p><u>Raised by:</u> British Association for Shooting and Conservation; British Shooting Sports Council & Council for Cadet Rifle Shooting; Clay Pigeon Shooting Association; Countryside Alliance; Phoenix Shooters Association; 5 individuals</p> <p><i>6. Your reference to converting replica firearms overlooks to fact that any skilled engineer capable</i></p>	<p>5. See point 1, above – not relevant to BCAP's proposed prohibition on ads for replica guns / offensive weapons.</p> <p>6. BCAP recognises in para 10.70 of the consultation document that replica guns are not,</p>
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of safely converting a replica is also capable of manufacturing a firearm from basic raw materials. Replica firearms which are legally available for sale in this country cannot be converted into functioning weapons, and the relevant shooting and gun trade associations have spent considerable effort in co-operating with the Home Office and the Forensic Science Service to ensure their non-convertibility.

Raised by:

British Association for Shooting and Conservation;
British Shooting Sports Council & Council for
Cadet Rifle Shooting;
Countryside Alliance;
3 individuals

7. The promotion and supply of replica guns is adequately provided for by the Violent Crime Reduction Act

Raised by:

British Association for Shooting and Conservation;
British Shooting Sports Council & Council for
Cadet Rifle Shooting;
Cavendish Sporting Events Ltd;
Countryside Alliance;
Historical Breechloading Smallarms Association;
Muzzle Loaders Association of Great Britain;
12 individuals

in and of themselves harmful. The fact that it may be possible to convert some replicas into functioning guns was one of many reasons why BCAP proposed the prohibition on ads for replica guns. The main reason for the proposal was to prevent the advertising of something that may not usually legally be manufactured, sold, converted into a functioning firearm or brought into Great Britain under the Violent Crime Reduction Act.

7. The main reason for BCAP's proposal to ban ads for replica guns was to bring the Code into line with the Violent Crime Reduction Act.

	<p><i>8. Any advertising of a legal use, promoting safety & awareness should be available to all businesses & organizations in the interests of public safety, public recreational sporting facilities & competition</i></p> <p><u>Raised by:</u> Clay Pigeon Shoot; An individual</p> <p><i>9. The proposed Code does not adequately define “offensive weapons”</i></p> <p><u>Raised by:</u> 2 individuals</p> <p><i>10. It is not ads for guns or shooting sports that contribute to “gun culture” but depictions of, and references to, guns in the media. Images of guns in, for example, films, computer games – and ads for them – are more guilty of glamorising gun misuse</i></p> <p><u>Raised by:</u> British Shooting Sports Council & Council for Cadet Rifle Shooting; FieldsportsChannel.tv; 4 individuals</p>	<p>8. See point 1, above – not relevant to BCAP’s proposed prohibition on ads for replica guns / offensive weapons.</p> <p>9. The new Code defines “offensive weapons” as “items made or adapted to cause injury”, a definition stemming from the Prevention of Crime Act 1953. BCAP considers that that definition is clear and, given the few respondents who disagree, maintains it in the proposed Code.</p> <p>10. See point 1, above.</p>
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	<p>11. <i>Assuming you appreciate that guns and similar weapons are not advertised on TV and radio NOW, you imply other media such as magazines.</i></p> <p><u>Raised by:</u> An individual</p> <p>12. <i>Any further or increased restrictions on advertising may have an effect on business communities that rely on any advertising they choose to purchase. It will also detrimentally affect a core market of people from gaining benefit from viewing any such advertising, and choosing where they can purchase equipment essential to their sport and recreational leisure time</i></p> <p><u>Raised by:</u> Northamptonshire Clay Pigeon Shooting Association; De-activated Gun Collector's Association; Sporting Targets; 10 individuals</p> <p>13. <i>I am concerned that the broad phrasing of the existing section could be interpreted as a prohibition on the reporting, televising or coverage on radio programmes of legitimate pastimes and sports involving shooting and guns.</i></p> <p><u>Raised by:</u></p>	<p>11. See point 1, above – not relevant to BCAP's proposed prohibition on ads for replica guns / offensive weapons.</p> <p>12. See point 1, above – not relevant to BCAP's proposed prohibition on ads for replica guns / offensive weapons.</p> <p>13. See point 1, above – not relevant to BCAP's proposed prohibition on ads for replica guns / offensive weapons.</p>
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	<p>2 individuals</p> <p>14. <i>Ads for replica guns would not, as BCAP contend, “glamorise the use of real guns”</i></p> <p><u>Raised by:</u> 2 individuals</p> <p>15. <i>The ban within the Violent Crime Reduction Act 2006 on the manufacture, sale or importation of realistic imitation firearms is not absolute: Section 37(2) of the Act provides statutory defences which allow manufacture, sale or importation.</i></p> <p><u>Raised by:</u> British Association for Shooting and Conservation; British Shooting Sports Council & Council for Cadet Rifle Shooting; Clay Pigeon Shooting Association; Countryside Alliance; 2 individuals</p>	<p>14. BCAP recognises in para 10.70 of the consultation document that replica guns are not, in and of themselves harmful. The fact that ads for replica guns could glamorise the use of real guns was one of many reasons why BCAP proposed the prohibition on ads for replica guns. The main reason for the proposal was to prevent the advertising of something that may not usually legally be manufactured, sold, converted into a functioning firearm or brought into Great Britain under the Violent Crime Reduction Act.</p> <p>15. BCAP understands that there are legitimate uses for replica guns. Some respondents highlighted that there are defences, in the Violent Crime Reduction Act 2006, that allow for certain circumstances in which the manufacture, modification, selling or bringing into Great Britain of a realistic imitation firearm would not be an offence. Those defences are for the purposes of:</p> <ul style="list-style-type: none"> • a museum or gallery; • theatrical performances and rehearsals; • production of films; • production of TV programmes; • organisation and holding of historical re-enactments; and • functions that a person has in his capacity
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	<p><i>16. Given the inaccuracies in law or the bias in opinion, and having spoken to our legal advisors, we invite you to withdraw the Consultation Paper in so far as it relates to firearms and guns more widely, and to restart the consultation period for that discrete category of advertisement. Should you decline our invitation we together with the other National shooting organisations reserve the right forthwith without further notice to take action (including but not limited to judicial review proceedings) to quash the relevant part of the current Consultation and have it re-issued in the terms we seek.</i></p> <p><u>Raised by:</u> Clay Pigeon Shooting Association</p> <p><i>17. Should you choose to follow the route you are proposing it will mean that there will be a ban on advertising the shooting events for the Olympic Games, the Paralympic Games and test events before the Games. This we feel sure would be a disappointment to the BOC and the London</i></p>	<p>as a person in the service of the crown.</p> <p>BCAP considers those defences are narrow and are unlikely scenarios of relevance to advertising. On that basis, it considers its prohibition on ads for replica guns is appropriate.</p> <p>16. See point 1, above – not relevant to BCAP’s proposed prohibition on ads for replica guns / offensive weapons.</p> <p>17. See point 1, above – not relevant to BCAP’s proposed prohibition on ads for replica guns / offensive weapons.</p>
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	<p><i>Olympic Committee for the Organisation of the Games (LOCOG)</i></p> <p><u>Raised by:</u> Clay Pigeon Shooting Association; De-activated Gun Collector's Association</p> <p><i>18. BCAP's proposal and existing prohibition on ads for gun clubs is in contravention of Article 10 of the European Convention on Human Rights</i></p> <p><u>Raised by:</u> De-activated Gun Collector's Association</p>	<p>18. See point 1, above – not relevant to BCAP's proposed prohibition on ads for replica guns / offensive weapons.</p>
<p>Question 56: Given its policy consideration, do you agree with BCAP's proposal to extend the present radio exception to the rule for references to clay pigeon shoots in advertisements only if they are promoted as part of a wider range of outdoor pursuits? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Cavendish Sporting Events Ltd; Charity Law Association; An organisation</p>	<p><i>Summaries of significant points:</i></p> <p><i>1. Cavendish Sporting Events Ltd:</i> The question is very difficult to understand. It appears that you are proposing to extend the <u>exception</u> to the rule (which apparently currently only applies to radio advertisements) that clay pigeon shoots can only be advertised as part of a wider range of outdoor pursuits. If that understanding is correct, then I agree with it.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. BCAP responds to criticism of the existing restrictions on ads for gun clubs and clay pigeon shoots under 'Other Comments' below.</p>

<p>requesting confidentiality;</p> <p>An individual</p>	<p>If, however, the real intention is to restrict the advertising of clay pigeon shoots, then my answer is No. Clay pigeon shooting is a sport enjoyed by tens of thousands of normal, responsible people in this country. Their guns are legally held, as they are licensed by the police. The sport raises huge sums of money for charity. Olympic Gold Medals have been won by this country's shooters. What possible reason, other than plain bias, could there be for singling out this sport for special treatment.</p> <p>I have been organizing clay pigeon shoots and teaching shooting for 20 years. My opinion is, therefore, based on many years' experience of shooting people.</p>	
<p><i>Responses received against BCAP's proposal:</i></p> <p>Anglesey Shooting School; British Alpine Rifles; British Association for Shooting and Conservation; British Shooting Sports Council; Council for Cadet Rifle Shooting; Cart Ridge Shooting</p>	<p>Summaries of significant points:</p> <p>BCAP received 86 responses commenting on its proposals outlined in question 56. For conciseness, BCAP here summarises recurring themes from those responses.</p> <p><i>1. Shooting sports / clay pigeon shooting are legal, legitimate sports with extremely low incidences of injury or crime. Moreover, many gun clubs enjoy charitable status because their activities are indeed deemed to serve a public interest.</i></p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. Because it already existed before BCAP proposed changes to the Prohibited Categories section during the Code Review, BCAP discusses respondents' reactions to the prohibition on ads for guns clubs in the 'Other comments' section of this evaluation table. It restricts its evaluation of comments</p>

<p>Ground; Christian Concern for our Nation; Clay Pigeon Shoot; Countryside Alliance; Derbyshire NFU; Headley Gun Club; Herts and Essex Shooting Association; Historical Breechloading Smallarms Association; Muzzle Loaders Association of Great Britain; National Small-bore Rifle Association; Northamptonshire Clay Pigeon Shooting Association; Phoenix Shooters Association; Sporting Targets; Shooting Times Magazine;</p> <p>67 individuals</p>	<p><i>2. There is nothing potentially damaging or harmful to the public about gun clubs / clay pigeon shooting. The prohibitions (both current and proposed) will do nothing to prevent crime; the prohibition serves no purpose, will not prevent harmful or offensive advertising and is unreasonable.</i></p> <p><i>3. It is not fair that gun clubs / clay pigeon shoots may not advertise freely and compete for members / participants alongside other sporting activities. It also limits gun clubs' and shooting events' potential to raise money for charitable causes.</i></p> <p><i>4. Before being able to join a gun club, a person must undergo careful checks and scrutiny. Gun club members are law-abiding people. Safety procedures are observed and injury is very rare.</i></p> <p><i>5. By prohibiting ads for them, BCAP implies that those who engage in shooting sports are engaged in criminal activity. BCAP appears to consider gun clubs and their members to fall in the same</i></p>	<p>here to its proposal to extend an exemption from that prohibition to ads that refer to clay pigeon shooting as part of a wider range of outdoor pursuits.</p> <p>2. Not relevant to BCAP's proposal – see point 1, above.</p> <p>3. Not relevant to BCAP's proposal – see point 1, above.</p> <p>4. Not relevant to BCAP's proposal – see point 1, above.</p> <p>5. Not relevant to BCAP's proposal – see point 1, above.</p>
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	<p><i>category as those involved in prostitution, drugs, etc. The ban will only exacerbate misconceptions about, and marginalise those who engage in, shooting sports.</i></p> <p><i>6. There is a lack of logical thought concerning the advertising of clay pigeon shooting: we question why should such activities be acceptable ‘only if they form part of a wider range of outdoor pursuits, for example in advertisements for a country fair’?</i></p> <p><i>7. It would be better to have a simple ban with no exceptions.</i></p> <p><i>8. It is not ads for guns or shooting sports that contribute to “gun culture” but depictions of, and references to, guns in the media. Images of guns in, for example, films, computer games – and ads for them – are more guilty of glamorising gun misuse.</i></p> <p><i>9. I am concerned that the broad phrasing of the existing section could be interpreted as a prohibition on the reporting, televising or coverage on radio programmes of legitimate pastimes and sports involving shooting and guns.</i></p>	<p>6. BCAP proposed to extend the existing radio exemption to the ban on ads for gun clubs to TV to allow clay pigeon shooting to be advertised if it forms part of a wider range of events. As such, ads allowed under that exemption would not have the sole focus of promoting guns or shooting activity.</p> <p>7. See point 6, above.</p> <p>8. Not relevant to BCAP’s proposal – see point 1, above.</p> <p>9. Not relevant to BCAP’s proposal – see point 1, above.</p>
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<p>Question 57: Given its policy consideration, do you agree with BCAP's proposal to extend to radio the present TV ban on advertisements for breath-testing devices and products that purport to mask the effects of alcohol? If your answer is no, please explain why.</p>		
<p><i>Responses received in favour of BCAP's proposal from:</i></p> <p>Advertising Association; Brake; Charity Law Association; Christian Concern for our Nation; Quaker Action on Alcohol and Drugs;</p> <p>An organisation requesting confidentiality;</p> <p>2 individuals</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Brake said:</i> Brake agrees that BCAP's priorities should be to prevent the promotion of products that have the potential to cause harm to the audience and prevent socially irresponsible advertising. As such, it shares BCAP's concerns about products that purport to mask the effects of alcohol and agrees that such products could not be advertised in a socially responsible way.</p> <p>2. <i>Charity Law Association said:</i> Products intended to mask the effects of alcohol should not be permitted as these are clearly intended to defeat the consequences of the law if a drunk driver should be caught.</p>	<p><i>BCAP's evaluation of those points and action points:</i></p> <p>1. No comments.</p> <p>2. No comments.</p>
<p>Responses received against BCAP's proposal:</p>	<p><i>Summaries of significant points:</i></p>	<p><i>BCAP's evaluation of those points and action points:</i></p>

<p>Brake; Charity Law Association;</p> <p>An organisation requesting confidentiality</p>	<p><i>1. Brake said:</i></p> <p>Brake also shares the concern that irresponsible advertising of breath-testing devices could encourage some drivers to use such devices to drink up to the drink-drive limit before driving. However, it does not share BCAP's conclusion that breath-testing devices could not be advertised responsibly. Given widespread public ignorance on the dangers of driving the morning after drinking alcohol and surveys showing many drivers dangerously underestimate the time that is needed for alcohol to leave their bodies, responsible advertising leading to more widespread use of personal breath-testing devices the morning after drinking could contribute to improvements in road safety.</p> <p>According to research by manufacturers, consumer breath testing devices can increase road safety and awareness of the risks of morning after drink driving. For example, in a survey by AlcoSense, which manufactures personal breath testing equipment, 52% of respondents said that using an AlcoSense device had persuaded them not to drive the morning after drinking, when otherwise they would have taken to the road, unaware that they were still affected by alcohol. AlcoSense estimates that its devices have prevented many thousands of drink drivers from taking to the road.</p> <p>As such, Brake believes that breath testing devices should be considered separately from products</p>	<p>1. BCAP considers that the present TV prohibition on advertisements for breath-testing devices is proportionate and relevant. The advertising of breath-testing devices could, in BCAP's judgement, condone or encourage drink-driving by implying that it is acceptable to drink up to the alcohol limit. BCAP considers that that could undermine Government policy and best-practice guidelines that motorists should not drink and drive. Any advertisement for a motoring product that condones or encourages dangerous or irresponsible driving practices would fall foul of the rules in the Motoring section of the Code and, although they would not be subject to those rules (because breath-testing devices are not classified as a motoring product), advertisements for breath-testing devices could seem to go against the spirit of the Motoring rules. BCAP is also concerned that advertisements for breath-testing devices could engender a false sense of security among drivers who wish to drink and drive because readings from breath-testing devices may be inaccurate: for example, readings taken shortly after drinking may be misleadingly low because blood-alcohol levels continue to rise for a while afterwards.</p> <p>BCAP has therefore decided to retain the existing prohibition on TV ads for breath-testing devices and products that purport to mask the effects of alcohol, and to extend that prohibition to radio ads.</p>
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that purport to mask the effects of alcohol and recommends that BCAP considers a partial relaxation of the current ban on advertising breath testing devices (but not products that purport to mask the effects of alcohol), within clearly defined rules. These rules should stipulate that advertising of such products is clearly based on promoting the devices as aids to understanding when alcohol has cleared from a person's system. They should not be promoted as devices which measure whether a person is over the legal drink-drive limit or not.

2. Charity Law Association said:

There may be some benefit in individuals being able to test whether they are safe to drive in the first place.

3. An organisation requesting confidentiality said:

We believe that breathalyser should be allowed to be advertised on TV and Radio but the adverts should only be allowed to promote the product in a socially responsible way. We agree that there is potential for an irresponsibly advertised breathalyser to encourage users to drink up the limit. Because however, AlcoSense is marketed in a highly ethical way we now have the support of the largest road safety organisation outside of the government - Brake, and support from members of Parliament.

2. See point 1, above.

3. See point 1, above.

Question 58:

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

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

- iii) Do you have other comments on this section?**

<i>Responses received from:</i>	<i>Summaries of significant points:</i>	<i>BCAP’s evaluation of those points and action points:</i>
Advertising Association; Charity Law Association; Christian Concern for our Nation; RACC; 2 organisations requesting confidentiality;	The Advertising Association and an organisation requesting confidentiality agreed and did not identify any areas for further consideration.	
2 individuals	<p><u>The existing prohibition on ads for guns</u> Many respondents commented that they disagreed with BCAP’s decision to maintain the prohibition on ads for guns (see responses to question 55, above). These arguments were cited:</p> <p><i>1. There is a wide range of legal and legitimate uses for replica guns, real firearms and other so-called offensive weapons</i></p>	<p>1. BCAP has decided to retain the existing prohibition on ads for guns, including replica guns, having considered the points raised against that prohibition by respondents (1-7, 9 and 11-</p>

	<p><i>2. By prohibiting ads for them, BCAP implies that those who legitimately use guns and replica guns are engaged in criminal activity. BCAP is ignorant of legitimate uses for guns, is discriminating against a law-abiding group of people and appears to consider those who use guns to fall in the same category as those involved in prostitution, drugs, etc. The ban will only exacerbate misconceptions about, and marginalise those who engage in, shooting sports or historical re-enactments</i></p> <p><i>3. The prohibitions (both current and proposed) will do nothing to prevent crime; the prohibition serves no purpose, will not prevent harmful or offensive advertising and is unreasonable. It is the people</i></p>	<p>13). It has done so for the reasons outlined in the consultation document and because wholesale ads for guns (which may be sold only by those authorised to sell guns and sold only to those authorised to buy guns) could not be targeted effectively in broadcast media.</p> <p>BCAP considered an ad for a gun was qualitatively different to, for example, an ad for a film that showed a fantastical scene with a character holding a gun: that ad would be recognised by the audience as depicting fantasy and would be in the context of the film being advertised.</p> <p>2. See point 1, above.</p> <p>3. See point 1, above.</p>
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who use weapons illegally, rather than the weapons themselves, that are dangerous. Sporting firearms are not “offensive weapons” because they are not intended to murder or maim

4. Before obtaining a firearm, a person must undergo careful checks and scrutiny. Advertised firearms could be bought only by those authorised to own one and those who use them do so within the law

5. Your basic premise as stated in 10.8 that only registered firearms dealers can sell firearms is factually wrong. Any individual with a firearm certificate can lawfully sell a firearm or ammunition to any other individual with a firearm certificate that lawfully entitles them to acquire and possess it provided that appropriate notifications are made to the police.

6. Any advertising of a legal use, promoting safety & awareness should be available to all businesses & organizations in the interests of public safety, public recreational sporting facilities & competition

7. It is not ads for guns or shooting sports that contribute to “gun culture” but depictions of, and references to, guns in the media. Images of guns

4. See point 1, above.

5. See point 1, above.

6. See point 1, above.

7. See point 1, above.

in, for example, films, computer games – and ads for them – are more guilty of glamorising gun misuse

8. Assuming you appreciate that guns and similar weapons are not advertised on TV and radio NOW, you imply other media such as magazines.

9. Any further or increased restrictions on advertising may have an effect on business communities that rely on any advertising they choose to purchase. It will also detrimentally affect a core market of people from gaining benefit from viewing any such advertising, and choosing where they can purchase equipment essential to their sport and recreational leisure time

10. I am concerned that the broad phrasing of the existing section could be interpreted as a prohibition on the reporting, televising or coverage on radio programmes of legitimate pastimes and sports involving shooting and guns.

11. Given the inaccuracies in law or the bias in opinion, and having spoken to our legal advisors, we invite you to withdraw the Consultation Paper in so far as it relates to firearms and guns more

8. The BCAP Code applies only to broadcast advertising. Neither the existing nor new CAP Code includes a comparable prohibition on the advertising of guns or replica guns.

9. See point 1, above.

10. The BCAP Code applies only to broadcast advertising; the rules do not apply to editorial coverage.

11. See point 1, above.

widely, and to restart the consultation period for that discrete category of advertisement. Should you decline our invitation we together with the other National shooting organisations reserve the right forthwith without further notice to take action (including but not limited to judicial review proceedings) to quash the relevant part of the current Consultation and have it re-issued in the terms we seek.

12. Should you choose to follow the route you are proposing it will mean that there will be a ban on advertising the shooting events for the Olympic Games, the Paralympic Games and test events before the Games. This we feel sure would be a disappointment to the BOC and the London Olympic Committee for the Organisation of the Games (LOCOG)

13. BCAP's proposal and existing prohibition on ads for gun clubs is in contravention of Article 10 of the European Convention on Human Rights

The existing prohibition on ads for gun clubs

Many respondents commented that they disagreed with BCAP's decision to maintain the prohibition on ads for guns clubs (see responses to question 56, above). These arguments were cited:

12. BCAP's new rule would ban ads for guns / gun clubs themselves, not ads for sports in which they feature.

13. See point 1, above.

	<p>1. <i>Shooting sports / clay pigeon shooting are legal, legitimate sports with extremely low incidences of injury or crime. Moreover, many gun clubs enjoy charitable status because their activities are indeed deemed to serve a public interest.</i></p> <p>2. <i>There is nothing potentially damaging or harmful to the public about gun clubs / clay pigeon shooting. The prohibitions (both current and proposed) will do nothing to prevent crime; the prohibition serves no purpose, will not prevent harmful or offensive advertising and is unreasonable.</i></p> <p>3. <i>It is not fair that gun clubs / clay pigeon shoots may not advertise freely and compete for members / participants alongside other sporting activities. It also limits gun clubs' and shooting events' potential to raise money for charitable causes.</i></p> <p>4. <i>Before being able to join a gun club, a person must undergo careful checks and scrutiny. Gun club members are law-abiding people</i></p>	<p>1. BCAP has decided it will consult on the prohibition on ads for gun clubs, having read respondents' comments to the Code Review consultation. BCAP will, therefore, reconsider its prohibition and conduct a consultation specifically examining whether the prohibition should be relaxed or maintained.</p> <p>2. See point 1, above.</p> <p>3. See point 1, above.</p> <p>4. See point 1, above.</p>
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	<p>5. <i>By prohibiting ads for them, BCAP implies that those who engage in shooting sports are engaged in criminal activity. BCAP appears to consider gun clubs and their members to fall in the same category as those involved in prostitution, drugs, etc. The ban will only exacerbate misconceptions about, and marginalise those who engage in, shooting sports.</i></p> <p>6. <i>It is not ads for guns or shooting sports that contribute to “gun culture” but depictions of, and references to, guns in the media. Images of guns in, for example, films, computer games – and ads for them – are more guilty of glamorising gun misuse.</i></p>	<p>5. See point 1, above.</p> <p>6. See point 1, above.</p>
	<p><u>Other comments</u></p> <p>1. <i>RACC said:</i> RACC advises that the cross-references referred to are replaced with the actual unacceptable or restricted categories of advertising for user-friendliness and faster, clearer referencing for Code users.</p>	<p>1. The cross-references point the reader to other sections of the Code that include product category restrictions. Those restrictions are not, in the main, prohibitions (apart from the ban on ads for POMs, which are a subcategory of Medicines; and the rule prohibiting them is therefore most usefully found in the Medicines Section). BCAP considers that those product category restrictions sit more suitably in the relevant Code sections (for example, the restriction of PRS of a sexual nature to encrypted elements of adult entertainment channels sits most relevantly in the PRS section).</p>