

Call for Evidence: "Review of Gaming Machines and Social Responsibility Measures"

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Question 7: Is there any evidence on whether existing rules on gambling advertising are appropriate to protect children and vulnerable people from the possible harmful impact of gambling advertising?

This response is based on the qualitative empirical evidence collected during my doctoral research studies when I carried out 23 focus groups with children (aged 14 & 15) and young people (aged 16 and 17) based in secondary schools located in the area of London and Kent under the ethical approval granted by the Ethics Committee on the Nottingham Trent University. In total my focus groups had 200 active participants defined as those students who expressed at least one substantive opinion during the discussions. Overall there were 71 male and 36 female participants from the 14/15 years old group and 34 male and 59 female participants from the 16/17 years old age group.

The existing regulation of gambling advertising is primarily based on the ASA Broadcast and Non-Broadcast Codes on Advertising and the Gambling Industry Code for Socially Responsible Advertising. Broadly, the rules contained in those instruments aim to protect minors from being attracted to gambling advertising by placing zoning restriction and regulating content. Zoning restrictions aim to exclude advertising from specific timeslots or locations where minors are most likely to be exposed to such advertising while content restrictions aim to ensure that those advertisements that are seen by minors do not appeal to them. My research led me to conclude that, on a practical level, the effectiveness of both methods is limited.

Although my study was qualitative in nature and findings cannot be generalised to the wider population, the desire to discuss gambling advertising was significant and was more apparent than for any other gambling-related issue that I also covered during the sessions. While the views of the participating pupils were suitably diverse on all other topics, all groups not only confirmed that they had seen gambling advertisements shortly prior to the focus group taking place, on television or online, but many pupils were also able to recall names of many gambling brands that were being promoted. Several pupils were able to provide quite a detailed summary of the content/plot or text of the advertisements, with some being even able to sing the relevant tunes. Most of the advertisements referred to where viewed around sport television programmes or on the Internet. One participant viewed gambling advertisement on a Disney Channel, one found them to be particularly annoying because she didn't know how to avoid them, especially online and many of the pupils stated that in their views there were far too many gambling adverts generally, both on TV and online. Two participants expressly said that they have seen the gambling adverts so much that *"it gets to the point where every time you just get angry and close the window"*.

This evidence points to the fact that zoning and watershed restrictions do not appear to be sufficiently effective. The self-imposed by the industry watershed restriction has limited impact primarily due to the fact that many minors watch television well after the watershed time of 9pm and many programmes are not watched live but 'on demand'. Secondly, the zoning restriction imposed by the ASA aims to remove 'harmful' advertising from programmes that have minors as their primary audience. To this end, the ASA devised a formula of audience indexing that helps with determination of what programmes appeal to children. However, this does not address the significant overlap of interests between adults and minors, especially as a substantial number of teenagers often watch programmes that are classified as designed to be of interest primarily to adults, or for family viewing with or without any parental supervision. The ASA audience indexing only removes gambling advertising from programmes that are primarily watched by children and will not do so if the programme has a mixed audience even if the absolute number of children watching it may be higher than the actual children's programmes. This issue is even more acute online when gambling advertising is ubiquitous.

Independently from the findings based on my focus group, my research has also led me to conclude that many of the online gambling providers use profiling tools in order to target customers that may be potentially interested in their products. If an online user enters a gambling site to e.g., seek information or to play demo games such user receives unsolicited emails that advertise free sign-up offers or other promotions. This is irrespective of whether the user registered his or her details as mere playing demo games or seeking information does not typically require registration. Moreover, even if the child registers for a gambling account with a false date of birth, the current advertising rules do not require the gambling provider to carry out age verification unless a financial transaction is attempted. This means that a false registration that has not led to a play for money may expose a minor to a substantial gambling advertising directly to their email or mobile phone. Gambling providers should be required to age-verify all customers to whom they address direct marketing.

With regards to the content of the advertising the CAP and BCAP rules aim to prevent minors being attracted to the adverts that they are exposed to. Those principles go a long way in restraining the gambling industry from exploiting many of the acute vulnerabilities of people who otherwise may be induced into wishful, as opposed to rational thinking. However, they are not sufficiently definite to eliminate the possibility of emotive appeal.

The participants in my focus groups overall verbalised a derogatory attitude towards gambling advertising. Nevertheless, many pupils admitted that many of the advertisements were interesting, appealing and "draw you in". The following are examples of some of the comments that were made:

- "they draw you in, they draw, as you may see it on a TV advert and you might think that you can bet on a football match and they say like, place like £1 to be in a chance of winning £50; and once you are inside ...; they may just put £10 like that: I think they do it really smart to target people and they do it really hard".
- "the gambling adverts are appealing; if you see gambling presented in a way, obviously, you want it; isn't there always like a hot girl in or around advertisements".

- “year, you know the advertisement, you know like I am watching TV and you see like this guy with all this 3-D dashing around with all the cool graphics and then you find it’s poker and all, not lie, it makes you want to go online and play poker but then you go online and it’s nothing like that; it gives you the wrong sense that gambling is like fun, like fun experience but when you really go out there it is like – argh”.

While some of the pupils recognised that some of the advertisements are “not really attractive” and “off-putting” others allured to the portrayal of glamour, having fun, gambling as an exciting way to socialise with others, humour, coolness and even links with sexual appeal that is specifically prohibited by the advertising codes. This demonstrates that the existing content rules do not sufficiently ensure that the advertisements are not attractive to minors. This stems primarily from the significant overlap of interests between teenagers and adults that makes it very difficult, if not impossible, to ascertain what appeals to adults while still being unattractive to children. This is further exacerbated by the approach adopted by the ASA to assess advertisements, if a complaint is made, on the basis of the transmission theory that assesses communication from the perspective of the sender, but this does not necessarily correspond to how young people construct and react to advertisements. Even if the impact is assessed from the perspective of the recipient of the communication it is being assessed against the perception of the overall population as opposed to the perception of children or those who may have already developed problem gambling and are accordingly vulnerable. Minors interpret reference to sexual appeal, financial success, rite of passage differently to adults; those who already developed problem gambling have a significantly lower resistance threshold to ‘free bets’ offers or offers of other promotions and accordingly it is their perspective that should underpin decision making rather than the perspective of the general public.

With regards to the availability of the existing evidence, it is submitted that the CAP and BCAP Gambling Review: An Assessment of the Regulatory Implications of New and Emerging Evidence for the UK Advertising Codes (2014) and the ASA Qualitative Study on Public Perception of Gambling Advertising in the UK (2014) provide only limited insight in the context of the licensing objective of s 1(c) of the Gambling Act 2005. The CAP and BCAP review is a largely descriptive review that only refers to previously existing literature and does not include any new data or sufficient reference to relevant studies from other jurisdictions. The ASA findings cannot be taken to indicate that existing restriction are adequate and work well to protect children and other vulnerable persons from advertising impact. The qualitative focus groups that were carried out by the ASA excluded from participation anyone who was under the age of 18 years old; anyone who either in the past or at the time of the focus group voiced their concerns about any type of commercials, including non-gambling commercials, anyone who has been identified as having too strongly anti-gambling views due to moral or religious conviction and anyone who has, had or was considered to have a gambling problem or if they looked for help for their gambling problem. This means that the ASA’s focus groups excluded everyone who have been identified by the Gambling Act as in need of specific protection. Accordingly, the findings should not be used to support the conclusion that existing regulations address the third licensing objective satisfactorily.

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