

BOOKIES FACE FOOTBALLING DILEMMA

The UK's Advertising Standards Authority (ASA) is becoming increasingly strict in how it enforces a ban on sportspeople aged under 25 being featured in gambling advertising. This should make operators think twice about how they advertise, especially around football, says **Tom Edmonds**



UNDER-18 PLAYERS AND GAMBLING SERVICES

Subject to exemptions, in particular those listed at (3) below, a player over 18 but under 25 cannot be used in gambling marketing, including on the social media channels of a gambling operator or football club.

A player aged 18-25 can be featured in marketing on a gambling operator's own website, subject to the image:

1. Being used to illustrate specific betting selections where the player is the subject of such bet.
2. Showing the player in the context of the bet (i.e. playing football) and not showing the player gambling.
3. Being used in gambling marketing on a non-broadcast medium, including social media channels, where the player is not

playing a "significant role" – though extreme caution should be taken if looking to rely on this exemption given the recent ruling by the ASA against Tottenham Hotspur. These three points should be reflected in sponsorship agreements and clearly explained to the marketing departments of both the gambling operator and football club.

What constitutes a football player having a "significant role" in a gambling advert?

Some people might be surprised to learn that this could comprise a player simply being included in a team line-up in a tweet that also includes a link to a gambling website.

Yet this is the view that the ASA recently took. This was important as it meant that the tweet in question breached a rule that gambling marketing must not feature anyone aged under 25 in a "significant role" in a gambling advert.

In this article we consider this ruling and the general restrictions (and exemptions) regarding the use of players who are under 25 in gambling marketing.

TOM EDMONDS is an associate at Northridge Law, a law firm which specialises in advising clients in the sports and gambling sectors.

However, there are particularly serious consequences for gambling operators. A breach of the CAP or BCAP Code amounts to a breach of social responsibility code provision 5.1.6 of the Gambling Commission's Licence Conditions and Code of Practice. This could, theoretically, lead to an operator's licence being suspended or revoked, preventing it from accepting bets in Great Britain, or a financial penalty. The head of marketing at the gambling operator could also be subject to regulatory action.

ADVERTISING: USE OF PLAYERS UNDER 18

Gambling marketing must not include a person who is under 18. This is expressly set out at 16.3.14 of the CAP Code and, although not expressly stated in the BCAP Code, would likely be caught its rules, including language that states an advert must not

be "likely to be of particular appeal to under-18s, especially by reflecting or being associated with youth culture" (17.4.5 of BCAP Code).

ADVERTISING: USE OF PLAYERS UNDER 25

There is a general rule in both the CAP Code (16.3.14) and BCAP Code (17.4.6), subject to some exemptions discussed below, that a player who is under 25 or who appears to be under 25 may not be featured gambling or playing a significant role in any gambling marketing.

Several gambling operators have been subject to ASA rulings for breaching this rule. For example, a Ladbrokes marketing email that included a photo of a 21-year-old Memphis Depay was held to have breached the CAP Code.

COMMON EXEMPTIONS REGARDING USE OF PLAYERS UNDER 25

The key exemption is that a gambling operator may use an image of a player

who is over 18 but under 25 in a gambling advert if:

- The advert is on the gambling operator's website where a bet can be placed.
- The image is used to illustrate specific betting selections where the player is the subject of such bet.
- The image shows the player in the context of the bet (i.e. playing football) and does not show the player gambling.

Another possible exemption is if the under-25 player does not play a "significant role".

Exactly what constitutes a "significant role" has been interpreted widely by the ASA and, as a result, the scope

"A Ladbrokes marketing email that included a photo of a 21-year-old Memphis Depay breached the CAP Code"

for any exemption is very narrow.

For example, in March 2019, Tottenham Hotspur tweeted a starting line-up which included two players, Harry Winks and Davinson Sanchez, both of whom were aged under 25, alongside a link to William Hill's website.

The ASA ruled that the CAP Code had been breached, even though the two under-25 players had not been displayed more prominently than the other players in the team line-up.

The ASA's rationale was that "each of them played an equally significant role in the marketing communication". As a result, it appears that the question is not simply whether a player individually has a "significant role" in the marketing, but additionally, if a player is featured as part of a group of players that have a "significant role" whether that player is equally significant within such group as other players. &

