

## GAMBLING LAW UPDATE

# Changes to ASA Gambling Advertising Guidance

The Advertising Standards Authority (ASA) has published an interim [update](#) as part of its ongoing consultation on gambling advertising. This includes the addition of new provisions in its [Guidance](#), which will come into effect on 1 November 2021. These changes are set out below.

## Emphasising Skill

CAP and BCAP Code provisions require that advertising does not portray gambling that is socially irresponsible or could lead to financial, social or emotional harm (CAP 16.3.1 and BCAP 17.3.1). The new guidance states that this is likely to be breached if advertises:

- › present complex bets or other gambling products in a way that emphasises the skill, knowledge or intelligence involved and could therefore lead to erroneous perceptions of risk or control,
- › present gambling as a way to be part of a community based on skill, or
- › state or imply that offers (such as those involving money back, 'free' bets or bonuses, or enhanced odds) are a way to reduce risk.

Operators of products that involve a large element of skill, such as poker, will need to tread carefully in their advertising. However, the ASA has clarified that "the new provision does not restrict promotion of online poker games on the basis that there are elements of skill involved in participation". It will focus on any implication that skill can make someone part of a community.

## Impulsiveness and Urgency

The Guidance currently provides that advertises must not unduly pressure the audience to gamble, for example "Bet Now!" messaging is restricted. This has been added to, with messaging likely to be found to encourage irresponsible gambling if it:

- › emphasises the immediacy of an event, or
- › presents a time limited offer and emphasises the need to participate before the odds change.

## Trivialisation

Approaches which trivialise gambling are already restricted by the guidance, but two new provisions have been added. Gambling adverts should not:

- › use humour or light-heartedness specifically to play down the risks of gambling, or
- › use unrealistic portrayals of winners (for example, characters winning first time or easily).

Importantly, we do not consider that these provisions prevent gambling operators using humour or light-heartedness in their advertising. But they must be careful to avoid linking this to the risks – the ASA says they should "avoid depictions of humorous or light-hearted ways of making a betting selection and humorous references that make light of the risks associated with participation".

## Financial Concerns

Following responses to the consultation exercise from students, the ASA has added to its proposed changes to the guidance. Adding to the current guidance on avoiding emphasising the financial motivations for gambling, advertisers should "exercise caution" when:

- › obviously depicting groups that are likely to experience financial pressures, such as students,
- › depicting winners, avoiding the implication that a character has won easily, or
- › using approaches that take advantage of people's hopes of winning or replicating the success depicted.

The second two of these provisions may present difficulty in preparing adverts which depict winners, however this is not an outright ban on depicting success at gambling.

**If you would like any further advice or assistance on the changes to the guidance (including on training options), please contact Melanie Ellis ([melanie.ellis@northridgelaw.com](mailto:melanie.ellis@northridgelaw.com))**