

Gambling on Top Flight Footballers: ASA Ruling

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The Advertising Standards Authority (“**ASA**”) has issued its [first ruling](#) under the new rules that prohibit gambling ads with “*strong appeal*” to under-18s, providing a useful example as to how the new rules will be applied.

Updated Gambling Ad Rules

As covered in more detail in [a previous article for this blog](#), on 1 October 2022 new rules in the UK advertising codes came into effect that restrict the content of gambling ads. The rules of both the UK Code of Non-Broadcast Advertising and Direct & Promotional Marketing (“**CAP Code**”) and the UK Code of Broadcast Advertising (“**BCAP Code**”) were updated to prohibit all gambling ads that are “*likely to be of strong appeal to children or young persons, especially by reflecting or being associated with youth culture*”.

More specifically, the advertising codes state that gambling ads must not include “*a person or character*” who has strong appeal to under-18s. Similarly, ads for gambling products associated with “*activities*” that are of strong appeal to under-18s should be avoided, unless appropriate steps are taken to limit their appeal.

These new rules were accompanied by substantial [guidance](#) on their implementation (“**ASA Guidance**”), which provided examples of these types of persons, characters and activities. Amongst other sectors, there was a particular focus on sports, especially football.

Examples of “*high risk*” persons to feature in gambling ads include UK footballers and managers who represent top clubs, national teams or compete in high-profile competitions. Non-UK “*star*” footballers at top European clubs and other prominent athletes from sports such as cricket, tennis and rugby with significant national profiles would also fall within this category. Activities that would have “*inherent strong appeal*” to under-18s include betting ads on football, eSports popular with minors, and prominent events in other sports.

Importantly, the ASA Guidance sets out some key exemptions from the “*strong appeal*” rules. A notable exemption is that the rules do not apply in media where, for all intents and purposes, under-18s can be entirely excluded from the ad’s audience. In order to benefit from this exemption, the marketer must be able to robustly verify that the potential recipients of the ad are over 18 years old.

The Advert

Ladbrokes ran a promoted tweet which contained a video with images of Premier League footballers Philippe Coutinho, Jesse Lingard and Kalidou Koulibaly, set against a background of question marks. The tweet featured the main heading “*Can these big summer signings make the question marks over their performances go away?*” together with the “Ladbrokes” brand in the image box.

Ladbrokes’ Argument

Ladbrokes argued that the ad complied with the CAP Code and the ASA Guidance. It contended that the tweet was just a brand engagement piece, which did not include any call to action, promotional offers or links back to the Ladbrokes site. Whilst Ladbrokes accepted that football and top-flight footballers carried a high risk of strongly appealing to under-18s, it claimed that it had successfully eliminated this demographic from the ad’s audience through:

- Age-gating: Ladbrokes’ twitter feed could only be accessed by users that Twitter had accepted as being over 18 years old; and
- Ad-targeting: as the ad featured in a promoted tweet, it could be targeted at specific audiences on Twitter, which Ladbrokes had implemented so that the ad would only reach users over 25 years old.

As a result of these restrictions, Ladbrokes said that they were able to provide evidence that, from a total of 50,666 impressions for the tweet, none were under 20 years old.

ASA’s Ruling

In relation to the ad’s content, the ASA reiterated the updated CAP Code rules and ASA Guidance: as the three footballers that featured in the ad were all current Premier League footballers who had played international football, they were likely to be of strong appeal to under-18s.

Regarding the ad targeting, despite the evidence provided by Ladbrokes, the ASA was not satisfied that the medium in which the ad appeared had entirely excluded under-18’s from its audience. Twitter relies on users self-verifying their age upon creating an account, which the ASA does not consider to be a sufficiently robust method of age-verification. Further, Twitter’s ad-targeting tools rely on behavioural attributes (e.g. interests and accounts followed) to support its age inferences. Again, the ASA does not consider this data to be sufficiently accurate.

As a result, the ASA did not consider that Ladbrokes had effectively excluded all under-18s from the ad’s audience to the level of accuracy required by the rules. Therefore, the ASA held that the ad breached rules 16.1, 16.3 and 16.3.12 of the CAP Code and must not re-appear in its current form.

Key Takeaways

1. **Stick to the ASA Guidance:** the ruling indicates that the ASA will closely follow its guidance in applying the new rules. There was little analysis as to whether each individual footballer would strongly appeal to under-18s, aside from the fact that they were current Premier League players who had played international football and were therefore “*high risk*”. The default position appears to be that high risk persons will have strong appeal to under-18s.
2. **Take caution when featuring footballers:** the ASA highlighted that football can strongly appeal to under-18s as a significant proportion of that demographic regularly play the sport and it has a huge media profile, which includes popular, dedicated media for under-18s. As a result, gambling ads that feature footballers are at particular risk of being caught by the new rules. The ASA standard is now effectively a ‘strict liability’ offence. Even when there was no evidence that a child had viewed Ladbrooks’ ad, the regulator still held there to have been a breach of the rules.
3. **Ensure age-verifications are robust:** social media that rely on users self-verifying their age or behavioural data to exclude minors from the ad’s audience will not be sufficiently accurate for the ASA. If a marketer is relying on ad-targeting to exempt the ad from the new rules, the age-verification of the audience must be validated by additional means, such as payment data or credit checking.

Jack Wood also contributed to this article.

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