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The effectiveness of self-regulatory  
advertising rules on the protection of minors  
and vulnerable persons (UK based study)

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# The UK Context

- Turning moment?
- **Gambling Act 2005** now as amended by **Gambling (Licensing and Advertising Act 2014)**
  - From extensive restrictions
    - To extensive freedoms
  - From gambling seen as a 'vice'
    - To legitimate industry and entertainment
- Natural consequences of the new social positioning of gambling



# The UK context

- **Pre - 2006**
  - General prohibition of advertising of any “hard-core” gambling
  - This included sports betting and all casino & card games
  - But excluded National Lottery and bingo for which advertising were permitted
- **Post – 2006**
  - General permission to advertise all forms of gambling in all forms of medium
  - Subject to compliance with self-regulatory Codes and the Advertising Standards’ Authority Code



# The issue of impact

- **Ongoing tension** between
  - Claims that gambling advertising may lead to gambling related harm
  - AND
  - Claims that gambling mainly influences market share or raise brand awareness in order to enable customer to make an informed choice
  - Lack of evidence of sufficient negative impact on general public
  - BUT
  - There is evidence of negative impact on the vulnerable groups (Binde, 2014)



# The issue of impact

- Many UK studies refer to data set applicable to generic populations (e.g., ASA report 2014)
- But the Gambling Act 2005 specifically **requires minors and vulnerable persons to be protected from gambling related harm (not the general public as such)**
- Accordingly, **effectiveness of advertising needs to be assessed from the perspective of minors and vulnerable groups**
- **Not from the perspective of general public**



# The rules

- Contained
  - In Generic laws and The Audiovisual Media Service Directive (limited scope)
  - Gambling Act 2005
  - CAP and BCAP Code
  - The Gambling Industry Voluntary Code
  - The Gambling Commission's Licence Conditions and Codes of Practice (LCCP)



# The rules – generic measures

- 'Gambling advertising must
  - *'be socially responsible, with particular regards to the need to protect children, young people and other vulnerable persons from being harmed or exploited'*
  - AND
  - *'must not exploit the susceptibilities, aspirations, credulity, inexperience or lack of knowledge of children, young persons or other vulnerable persons'.*



# The rules – generic measures

- Gambling adverts **MUST NOT**
  - be misleading or not encourage irresponsible gambling
  - suggest that gambling can offer a solution to personal problems or financial difficulties
  - portray gambling as more important than other life activities or within the working environment or in the context of toughness or link it to resilience or recklessness
  - be linked with increased self-image or self esteem, with sexual success or seduction, or with criminal or anti-social behaviour
  - suggest gambling as a rite of passage or that solitary gambling is preferable to social gambling
  - exploit cultural beliefs or traditions about gambling or luck





# The rules for minors' protection

- **Zoning restrictions** - No gambling advertising:
  - On TV before 9pm (unless adjacent to a sporting event)
  - Adjacent to programmes aimed specifically at children (measured by reference to audience indexing)
  - On merchandise or sports clothes designed to be used by children (defined as attracting 0% VAT rate).
- **Content restrictions** - Designed to stop youths' appeal. Gambling adverts must not be:
  - "of particular appeal to children or young persons, especially by reflecting or being associated with youth culture"
  - "must not include a child or young persons or anyone who appears to be under the age of 25"
  - be directed at children or young people
  - must not suggest to be a 'rite of passage'



- Methodology
  - Part of PhD thesis
  - Ethical approval granted by the Ethics' Committee of the Nottingham Trent University
  - 23 focus groups carried out in secondary schools in the area of London and Kent
  - Participants
    - 200 active participants in total
    - 11 focus groups with Year 10 (14/15 years old)
    - 11 focus group with Year 12 (17/18 years old)
    - One focus group in a youth club (mixed age)
    - Year 10 – 71 males & 36 females
    - Year 12 – 34 males and 59 females
    - Mixture of schools – co-educational and single gender, affluent and deprived areas but no private schools.



- Zoning/timing

## restrictions

- What zoning/timing restrictions?
- Heavy exposure to gambling adverts online, on the High Street, on television
- Many pupils were able to recall advertised brand, to describe with details the content/plot of the advert
- Some were even able to sing the relevant tunes

- Content restrictions

- Hit & Miss
- Some of the adverts were found to be “off-putting”, “not really attractive” and “dishonest” for showing only winners and never losers
- BUT
- Others were found to be appealing because they
  - “portray glamour”,
  - “show how to have good time and socialise with others”,
  - “are humorous”
  - “show how to be cool”
  - “has links with sexual appeals”
- Note the LACK of references to any specific cartoons, music or use of young people



# Minors' view of the rules

"They draw you in, you may see it on a TV advert ... they say like place like £1 to be in a chance of winning £50, and once you're inside; they make you think that. I think it's smart to

"the gambling adverts are appealing; if you see gambling presented in a way that you want to try it, it's a

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"Yeah, you know the advert, 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 out it's poker and all, no lie, it makes you go online and play poker but it's nothing like the wrong sense that gambling is a fun experience but

There are some scams out there, basically we were watching this film and the pop up comes and this woman comes with all her cleavage and it's like coming out... and you are so on to it and you fill in your details and they take all your money like that

O (female,

We have seen it out there it is like much that "it gets to a point where every time you just get angry and close the window"

Cookie (male)

Quentin

David and John (males)



## How does ASA apply the rules?

- Advertising Standard's Authority's rulings show how the Code operates on a practical level
- Only a relatively small number of complaints against adverts have been made the included specifically an allegation that they may appeal to children
- Those that were upheld tended to have committed either an unequivocal breach of the Code (even if only technical) OR they were obviously targeting/of potential appeal to children
- Those that were not show the actual level of aimed protection.



# Upheld complaints

## Clear breach of the Code

- Paddy Power ad with Luiz Suaraz (24 years old)
- Betfair email ad with Annette Obrestad (20 years old) with email address Annette\_15 and a strapline “*online experience measured in games, not years*”
- Email ad for Ladbroke featuring Memphis Depay (under 25 years old)
- TV ad for coral.co.uk shown during kids programmes
- Bet Butler email promoting £25 bet sent to a 10 year old

## Obviously appealing to children

- TV ad for King.com with colour graphics, cartoons, and a woman being overjoyed after winning 20p
- 888.com advert featuring cartoon Spiderman
- Metro Play and Mirror Casino adverts featuring Optimus Prime (famous toy brand Transformers)
- Website ad for sloster.com included cartoon image of meerkat and games such as Piggy Payout/Fluffy Fav



# Rejected complaints

Insufficient  
appeal / the  
minor's fault?

- TV ad featuring Robin Hood for 888.com and actors wearing medieval clothes, using medieval language and behaving in a coquettish manner because “*the full – sleeved floor-length dresses with trains, head dress, rings and handkerchief, would have been foreign to young viewers*”
- Casino rewards email sent to 14-year-old ok because he registered with false date of birth but no age-verification was carried out.

Zoning/timing  
restrictions  
sufficient

- TV ad for Foxy Bingo.com featuring a fox ok as scheduling restrictions sufficient
- Mecca Bingo advert (Facebook) with reference to X Factor, Little Mix and Miss Dynamix ok because only available to 18+ Facebook users
- Profitable Play Bingo ok as on 18+ Facebook page only
- Ad in Flush ok as in age restricted magazine



# Analysis of minors' protection– emerging issues

- Watershed / timing restrictions
  - Largely ineffective for any children other than the very young
  - Minors' viewing patterns is not confined to day time TV with 26.6% UK teenagers (10-15 years old) watching after 9pm and 8% watching after 11pm (Ofcom report)
  - Minors in my sample themselves felt (very strongly) that they see too many gambling adverts (not just on television but also online, on the High Street)
  - Accordingly, ASA's attitude to some of the complaints that zoning / timing restriction are sufficient even if the adverts is viewed as appealing to minors is concerning
  - Equally concerning is lack of age-verification requirements before individual targeting with gambling advertising





## Analysis of minors' protection– emerging issues

- One more (not yet fully addressed) issue
  - Adverts in tablet's games



- Free to play
- Rated 4+
- In-game advert – a casino



- Free to play
- Rated 4+
- In-game advert – slot machines



# Analysis of minors' protection– emerging issues

- Content restrictions
  - Minors (like adults) are not homogenous group and often what appeals to adults will also appeal to teenagers (Fielder et al, ChildWiseUK, Livingstone)
  - Data from 1,200 UK children (5 to 16 years old) showed that minors like ads that are “humorous and well executed” regardless of the product with 11 to 16 years old liking the alcohol industry adverts most (Duff)
  - This makes the distinction between what appeals to adults and what appeals to minors highly artificial. E.g,
    - Regal advertising
    - Foxy Bingo
  - The special case of sexual appeal
  - Sports sponsorships and celebrities' use



# The Code, ASA and vulnerable adults

- Who is vulnerable?
  - ????
  - At the very least those who already suffer from problem gambling and those who are at risk of developing problem gambling



## Superstitions

### CAP Code

Ads must not exploit cultural beliefs or traditions

### BUT Help Note

This only applies to existing strongly and communally held beliefs and not e.g., clover leaf (i.e., superstitions)

## Free bets

Advertising of free bets/ bonuses permitted as long as they are not misleading & T&C clearly stated

BUT free bets/bonuses are known as potential triggers for problem gamblers

## Self- Exclusions

LCCP – no marketing communication to excluded customers

But generic mailshots still permitted even if it may reach excluded customers



# Conclusion and recommendation

- Despite appearance of rigour there is a substantial disjoint between the licensing objective of the Act, the Codes and their practical implementation
- It is illusory to think that a satisfactory distinction can be made between what appeals to adults and what appeals to minors
- The ineffectiveness of zoning has to be recognised
- Banning gambling advertising IS NOT a solution
- The solution is to work on content to remove emotive appeal and glamorisation of gambling and to focus purely on providing information to those customers who wants to gamble.
- In other words – inform but don't encourage and stimulate dream-like states.



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# Questions?

