

# ASA rulings on operators' under-25 golfer Twitter adverts

## ASA rulings set precedent for social media use by operators

On 28 October, the Advertising Standards Authority ('ASA') delivered its rulings in three cases where it was alleged that gambling operators had featured under-25s in gambling advertisements on social media website Twitter, in breach of the CAP Code drawn up by the Committee of Advertising Practice.

Many gambling operators, of course, use Twitter to engage with their customers, announcing special offers and odds and giving updates on ongoing sporting events. Here, tweets by Totesport, Coral and Bet365 each featured images of the American golfer Jordan Spieth, who had recently won the US Open Golf Tournament, and was 21 at the time. The Totesport and Coral tweets included odds and the Bet365 tweet invited customers to predict how many more Major golf tournaments Spieth might win in 2015.

The CAP Code prohibits the use of anyone who is, or who appears to be, under the age of 25 in the vast majority of gambling advertisements. Rule 16.3.14 was slightly relaxed following a consultation in 2013 and currently provides that:

"Marketing communications must not include a child or young person. No-one who is, or seems to be, under 25 years old may be featured gambling. No-one may behave in an adolescent, juvenile or loutish way. Individuals who are, or seem to be, under 25 years old (18 - 24 years old) may be featured playing a significant role only in marketing communications that appear in a place where a bet can be placed directly through a transactional facility, for example a gambling operator's own website. The individual may only be used to illustrate specific betting selections where that individual is the subject of the bet offered. The image or other depiction used must show them in the context of the bet and not in a gambling context."

The upshot of this is that no one under, or appearing under, 25 may be depicted gambling. Those aged 18 - 24 may be shown, but only engaged in their sport, the subject of the bet and only where the advertisement appears on a medium via which that bet can be placed directly.

The rule is intended to prevent characters in advertisements appealing to children and young people, and is one of a raft of measures designed to avoid gambling advertising targeting, or being likely to appeal to, children and young people.

In the October cases, the ASA ruled that the tweets were advertisements. It found that tweets that feature even indirect links to products or services amount to marketing communications and must comply with the CAP Code. Although the Bet365 tweet did not include odds, it was nevertheless an advertisement because, by inviting customers to speculate as to how many Majors Spieth might go on to win, it was encouraging them to gamble.

Because the tweets had featured Spieth playing a significant role and had not appeared in a place, such as on the operators' own websites, where a bet could be placed directly through a

transactional facility, the tweets therefore breached the Code.

The consequences of these rulings are clear: the CAP Code's provisions are not confined in their application to banner advertisements or posters in the traditional sense - they also extend to marketing on social media, that is to say in third party space that is under the marketer's control, such as Twitter and Facebook. Since a lot of what appears on social media essentially amounts to advertising, these rulings therefore set an important precedent.

Although it is permissible to depict under 25s in online marketing communications related to gambling in the limited circumstances set out above, because social media sites do not allow bets to be placed directly on them, it follows that gambling advertisements featuring those who are, or appear to be, aged under 25 are highly unlikely to be acceptable on social media. This is true even if the individuals concerned are depicted engaged in the sporting activity that is the subject of the bet, rather than in the gambling transaction itself.

It is important that operators are aware of the repercussions of these rulings and that they closely monitor the content of their social media communications accordingly.

The CAP has amended its Guidance on 'Featuring Under 25s in Betting and Gaming Advertising' as a result of these recent developments<sup>1</sup>.

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1. A copy may be seen here: <https://www.cap.org.uk/Advice-Training-on-the-rules/Advice-Online-Database/Betting-and-Gaming-Featuring-under-25s.aspx#.Vm71Y7u9SRw>