

The BCAP Code Review

Consultation on the proposed BCAP Broadcasting Advertising Standards Code

Response from The Christian Institute

The Christian Institute is a non-denominational charity established for the promotion of the Christian faith in the UK and elsewhere. We have 22,500 supporters throughout the UK, including over 3,000 churches and church ministers from almost all the Christian denominations.

We hold traditional, mainstream Christian beliefs about marriage, sexual ethics and the sanctity of human life from conception.

In this response, we have chosen to answer three questions: questions 54, 62 and 147.

Question 54

i) Given its policy consideration, do you agree with BCAP's proposal to relax the present prohibition on TV advertisements for pornography products and allow them to be broadcast on encrypted elements of adult entertainment channels only? If your answer is no, please explain why.

ii) Given its specific policy objective, do you agree that BCAP's proposed rules are necessary and easily understood? If your answer is no, please explain why.

iii) Given BCAP's policy consideration, do you agree that advertisements for R18-rated material should be permitted to be advertised behind encrypted elements of adult entertainment channels only but that the content of those advertisements themselves must not include R18-rated material or its equivalent? If your answer is no, please explain why.

Response:

i) No. Advertisements for pornography products should not be broadcast at all.

The consultation document itself acknowledges that children are able to access encrypted adult entertainment channels (para. 10.61). Therefore any relaxation of the law decreases the protection of under-18s from such content.

The fact that the adverts themselves will not contain R18-rated material is not a sufficient safeguard. Advertising is a powerful tool, as indicated by the billions of pounds spent on it each year in the UK.¹ Under-18s viewing the adverts are therefore highly likely to be influenced by them and be encouraged to seek to obtain pornography, including R18-rated material.

Aside from the potential for children to view the advertisements, it must be remembered that R18-rated material is seriously hardcore pornography. Even for adults, access to such material is strictly controlled, for good reason. Hardcore pornography clearly has potential to cause harm:

- Pornography can act like a drug. Users can develop a tolerance and seek more and more explicit material to achieve the same level of stimulation. In extreme cases this can involve, for example, sexual violence against women or the sexual abuse of children.
- Pornography promotes a view of sex that is degrading to women.
- Pornography influences behaviour, for example, in terms of male attitudes to women. A 'laddish' culture which views pornography as harmless fun is in fact extremely damaging. There is a negative impact on the way women are viewed and treated.
- There are many instances where sex offenders have been heavy users of pornography. This is well established – for example, the Attorney General's

¹ Advertising Association, see <http://www.adassoc.org.uk/> as at 18 June 2009

Commission on Pornography found “evidence of a correlational relationship between pornography availability and rape offenses in the United States”.²

- The pornography industry has needed strong regulation because of the historical link to organised crime.³

- ii) We disagree with the policy objective. BCAP’s proposals to relax the rules are unnecessary and wrong. At the very least, the status quo should be retained. For the reasons already stated it would be far better for all advertising of R18-rated material to be completely banned.
- iii) **The advertising of R18-rated material should not be permitted at all, even on encrypted elements of adult entertainment channels.**

If BCAP decides to allow adverts for R18-rated material, it must not include R18-rated material itself, because:

1. This would totally undermine the intention of Parliament that R18-rated material is only available for purchase in licensed sex shops. This principle was upheld in 2005, when the High Court ruled it unlawful to sell R18-rated material by any other means except over the counter in sex shops.⁴
2. It would also substantially increase the very clear risks of under-18s viewing that material.

² *Final Report of the Attorney General’s Commission on Pornography*, Rutledge Hill Press, 1986, page 270

³ See, for example, Manchester, C, *Sex Shops and the Law*, Gower Publishing Company Limited, 1986, pages 37-41

⁴ *BBC News Online*, 23 May 2005, see <http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk/4573507.stm> as at 19 June 2009; *The Guardian*, 24 May 2005

Question 62

i) Given BCAP's policy consideration, do you agree that it is necessary to maintain a rule specific to post-conception advice services and to regulate advertisements for pre-conception advice services through the general rules only?

ii) Given BCAP's policy consideration, do you agree that rule 11.11 should be included in the proposed BCAP Code? If your answer is no, please explain why.

Response:

We do not agree that 'post-conception advice services' should be advertised on television if those adverts are going to contain mention of abortion.

Abortion is a highly controversial issue in society. Any woman wishing to have an abortion must obtain the agreement of two doctors. The intention of Parliament is that women should be aware of what the procedure involves together with the risks and consequences of abortion.

Abortion is an extremely serious medical procedure with grave potential side-effects, including death by infection. The Royal College of Psychiatrists has advised that women should be warned about the mental health risks before proceeding⁵, and the link between abortion and subsequent premature birth is not contested.⁶ In light of this, **if abortion advertising is to be permitted, abortion advertisers should have to include health warnings in their advertisements. This would parallel the situation in the financial sector, where, since financial advisers are under a duty to make known the risks, warnings about risk are also routine in adverts for their services.**

The consultation document proposes that pro-life pregnancy advice centres should be forced to say in any adverts that they will not refer women for abortion. **On the same basis, those advertising for abortions should be compelled to state openly if they do not offer counselling to women who choose to keep their babies.**

Those advice centres that do not refer for abortion should arguably have more freedom to advertise than those that do, since, unlike advice or counselling, abortion is not available directly to the public. There must be a medical referral, because of the seriousness of the procedure. There is a strong danger that the serious nature of abortion will be underplayed if it starts being included in television adverts.

There is increasing evidence that many babies born at under 24 weeks can survive: national figures for 2005 showed that 52 babies born earlier than 24 weeks survived.⁷ This is the sort of information which could be highly relevant to someone considering an abortion. Yet we doubt whether providers of abortion advice services would make this fact known.

⁵ Royal College of Psychiatrists, *Position Statement on Women's Mental Health in Relation to Induced Abortion*, 14 March 2008

⁶ Rooney, B and Calhoun, B C, 'Induced Abortion and Risk of Later Premature Births', *Journal of American Physicians and Surgeons*, 8 (2), 2003, page 46

⁷ House of Commons, Hansard, 25 March 2008, cols 13-14 wa

Abortion is allowed up to birth in the case of handicap. Last year almost 2,000 such abortions were carried out on women resident in England and Wales.⁸ How will disabled people feel when they watch abortion services being advertised on TV?

Abortion adverts will mean children much more easily see and hear about abortion. It will be much harder for parents to manage how their children learn about this sensitive subject.

A ComRes poll conducted in May 2008 found that seven in ten women want the abortion time limit lowered.⁹ There is a widespread perception that more than 200,000 abortions a year is far too many. An increasing number of doctors are refusing to perform abortions.¹⁰ Television is not an appropriate medium for advertising such things. It is a highly contentious issue. **If abortion providers and groups which refer women for abortions are permitted to promote their services, then in all fairness organisations who oppose abortion must also be permitted the same freedom to promote their services. This raises the question about whether advertising is an appropriate medium to fight out one of the most contentious “culture war” issues of our time.**

A further point is that the BCAP Code is used by the Advertising Standards Authority (ASA) to adjudicate on complaints. If the Code is to allow advertising of abortion services, the ASA will inevitably find itself adjudicating on one of the most controversial contemporary issues.

⁸ *Abortion Statistics, England and Wales: 2008*, ONS, Department of Health, May 2009

⁹ Polling details: ComRes interviewed 1,014 GB adults by telephone between 2nd and 4th May 2008. Data were weighted to be representative demographically of all GB adults. ComRes is a member of the British Polling Council and abides by its rules. See www.comres.co.uk

¹⁰ *The Independent*, 16 April 2007

Question 147

Do you agree that television advertisements for condoms should be relaxed from its present restriction and not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to children below the age of 10? If your answer is no, please explain why.

Response:

No.

Advertising condoms before the 9pm watershed would risk exposing children to inappropriate material. Parents should feel safe to allow their children to watch TV before the watershed. **The vast majority of parents would feel distinctly uncomfortable with their ten-year-old children watching condom adverts.** BCAP has not produced any evidence to contradict this assertion.

Condoms are widely available and promoted in a vast number of locations already, so allowing further advertising is simply unnecessary.

The relaxation of the advertising restrictions on condoms is being carried out on the basis of a completely flawed rationale. The consultation document suggests that BCAP is relaxing the restriction in the face of demands from Government-appointed advisers on sexual health (paras 32.26-32.27). The UK's rates of teenage pregnancy and sexually transmitted infections (STIs) are being cited as justification for further promotion of condoms. Condoms are held out as the solution to these problems, and the advertising of them on television is said to be the best means to encourage more widespread use amongst young people. But this is simply yet another attempt to push the teenage pregnancy strategy, an approach which has completely failed. Professor David Paton of Nottingham University has shown that, far from reducing teen pregnancy and STIs, wider availability of contraception encourages sexual activity and is therefore likely to actually exacerbate problems.¹¹ Advertising condoms on television to over-10s is not the answer to the sexual health problems amongst UK young people.

By far the most effective remedy to the problem of STIs would be for people to have lifelong monogamous, faithful relationships with uninfected partners. Promoting marriage would therefore be a more sensible public health strategy. Advertising condoms will reinforce a message to young people that 'everybody is doing it', normalising sexual activity at an age when it is in fact far from normal, and encouraging further promiscuity. This will inevitably lead to an increase in STIs. Furthermore, even with optimal use, not all STI transmission can be prevented by a condom and advertisers should be required to warn about this.

The consultation document refers to treating advertisements for condoms in line with the way advertisements for sanitary protection products are treated (para. 32.27). The

¹¹ Paton, D, 'The Economics of Family Planning and Underage Conceptions', *Journal of Health Economics*, 21, 2002, page 223; *The Times*, 5 March 2002

document cites Baroness Gould of Potternewton's suggestion that this would help normalise condoms in the same way that sanitary protection products have been normalised. However, this is an unsuitable comparison because the nature of the products is entirely different. The use of sanitary protection products can be perfectly normal for some girls from the age of 10 upwards, depending on their physical development. It is therefore entirely appropriate for such products to be normalised. However, the use of condoms by children below the legal age of consent should not be normalised. Sex is not an activity for children, and any advertising that suggests otherwise is completely irresponsible and wrong.

Consequences of early sexual activity

There are serious health risks stemming from early sexual activity. In particular, medical opinion recognises that young women are biologically more susceptible to STIs than older women.¹² Key medical factors include physiological and immunological issues.¹³

1. Physiological

The hormonal activity which causes the development of secondary sexual characteristics also causes the vaginal lining to thicken considerably from just a few cell layers to around an 80 cell layer thickness. The thinner the cell layer thickness at the time of first sexual intercourse, the greater the likelihood of trauma (coital injury) which may facilitate the spread of STI pathogens. Another key element of the vagina's defence against infection, an antibacterial mucus, only develops up to two years after a girl has had her first period.

2. Immunological

A teenage girl is still immunologically immature. In particular, levels of a key antibody called IgA (or Immunoglobulin A) in the blood have only reached 60% of the adult level by puberty, and this level increases slowly thereafter.

There are also emotional implications of early sexual activity. Many young people who have engaged in teenage sexual activity have admitted regretting this later in life. The largest and most academically robust study of sexual activity ever carried out was the *National Survey of Sexual Attitudes and Lifestyles*, published in 1994. Analysis of this British survey found that 58.5% of girls whose first act of intercourse was underage later regretted it as "too soon".¹⁴ A recent study in Ireland uncovered very similar figures – 59% of women engaging in first sexual intercourse before 16 said they should have waited longer.¹⁵

¹² *Tracking the Hidden Epidemics: Trends in the STD Epidemics in the United States*, Centers for Disease Control and Prevention, US Department of Health and Human Services, 2000, page 3

¹³ Duncan M E, Tibaux G, Pelzer A et al, 'First Coitus Before Menarche and Risk of Sexually Transmitted Disease', *The Lancet*, 335, 1990, page 340; Duncan, M E, 'Anal Intercourse - The Medical Risks' (unpublished paper, 2000)

¹⁴ Johnson A M, Wadsworth J, Wellings K et al, *Sexual Attitudes and Lifestyles*, Blackwell Scientific Publications, 1994, Table 4.13, page 96

¹⁵ Rundle K, Layte, R and McGee, H, *The Irish Study of Sexual Health and Relationships, Sub-Report 1: Learning About Sex and First Sexual Experiences*, 2008, Table 5.6, page 114

Television advertisements for condoms should not be shown in or adjacent to programmes commissioned for children as young as 10. Doing so would bring such products to the attention of children at an age when engaging in activities for which they are designed is extremely damaging. This appears to conflict with rule 5.4 of the draft code: “Advertisements must not condone or encourage practices that are detrimental to children’s health.” **The existing restriction of the 9pm watershed should be retained.**