

The BCAP Code Review Consultation on the proposed BCAP Broadcast Advertising Standards Code. Response from the British Humanist Association, June 2009.

About us

The British Humanist Association (BHA) is the national charity representing the interests of the large and growing population of ethically concerned non-religious people living in the UK. It exists to support and represent people who seek to live good and responsible lives without religious or superstitious beliefs.

The BHA is deeply committed to human rights, equality, democracy, and an end to irrelevant discrimination, and has a long history of active engagement in work for an open and inclusive society. In such a society people of all beliefs would have equal treatment before the law, and the rights of those with all beliefs to hold and live by them would be reasonably accommodated within a legal framework setting minimum common legal standards.

The BHA is committed to encouraging informed and responsible choice. It therefore believes that all children and young people are entitled to full, accurate and unbiased information on sex and relationships, including on matters of contraception, STIs, abortion, sexual orientation, and the many forms of family relationship conducive to individual fulfilment and the stability of society.

The BHA applies humanist values of rationality, inclusion, openness, and concern for human happiness and welfare when working out policy.

We welcome the opportunity to respond to this consultation. We choose to respond to three sections of the consultation on the BCAP Code Review, namely Section 11 as concerned with family planning centres, Section 32 as concerned with condoms, and Section 15, in that order.

Response to consultation

Part 2 - Section 11. Medicines, Medical Devices, Treatments, and Health

Family Planning Centres

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.

i) and ii) Yes. In principle, we welcome the proposed rule as an important way for women with an unplanned pregnancy to be able easily to access information about their options. We also welcome the efforts to avoid unnecessary delays to women seeking abortion.

Anti-choice organisations not only delay women who are considering or seeking abortion services but in some case mislead women with false information about abortion, including making exaggerated or false claims about the risks associated with abortion. This does not simply delay women accessing abortion services but can actually deter women from seeking an abortion thereby curtailing their ability to make their own choices.

There will be some services which are not anti-choice but which are unable to refer women for

abortion because of the nature of their service, for example because they are nurse-led (only doctors are able to sign the forms needed to refer women for an abortion). There is a risk that stating in advertising that these services do not refer for abortion could give the false impression that they are opposed to abortion. Some women who are unsure about what to do about their pregnancy and who want to discuss all of their options may be deterred from using these services if they do not think that abortion will be discussed with them. It is vital that women with unintended and unwanted pregnancies are able to access, in a timely way, accurate, objective information about all of the options open to them so that they can make their own informed decision.

Women have been able to access safe and legal abortions from the NHS or privately since the 1970s. There is no legitimate reason why those who provide this basic healthcare service, to which women have a fundamental right to access, should be prevented from advertising their services.

We agree with BCAP's proposals on changing the rules on advertising of post-conception advice services (1) to allow post-conception pregnancy advice services the freedom to advertise and (2) to ensure that advertisements for those services make clear whether the service refers a woman for abortion. We agree with BCAP that it is important to make clear whether a service refers women for abortion because, for those women who opt for it, delay in performing an abortion could result in medical complications.

We would also recommend that within the non-broadcast advertising code, the rule requiring services to declare whether or not they refer women directly for abortion is replicated.

Part 2 - Section 32. Scheduling.

Condoms

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.

Yes. Removing the current restrictions on advertising condoms will help to normalise condoms and their use and therefore could make a significant impact on sexual health in the UK, helping to prevent sexually transmitted infections and unintended pregnancies. By bringing adverts for condoms more into the mainstream, this change will combat some of the current reticence around talking about and using condoms and will encourage people to take responsibility for their own health and that of their partners – using condoms is responsible. The adverts could also provide opportunities for parents and carers, for example, to talk to their children about issues associated with sex and relationships.

That condoms may be advertised earlier in the evening is also very positive news – young people must be able to access information about the importance of safer sex and television is an excellent medium for reaching the cohort which is most at risk of STIs and unwanted pregnancies.

We strongly agree with BCAP's proposals to remove restrictions preventing advertising condoms before the 9pm watershed, except for preventing adverts for condoms taking place during or adjacent to programmes principally directed at or likely to appeal to children under the age of 10.

Part 2 – Section 15. Faith, Religion and Equivalent Systems of Belief.

General comments

The title of the section and references throughout it raise the question of terminology: "Faith, Religion and Equivalent Systems of Belief" is in itself unobjectionable but it might be useful to gloss it by a reference to the meaning of 'religion or belief' in the Equality Act 2006 section 44:

(a) "religion" means any religion,

(b) "belief" means any religious or philosophical belief,

(c) a reference to religion includes a reference to lack of religion, and

(d) a reference to belief includes a reference to lack of belief.

and/or by reference to the meaning of the phrase 'religion or belief' under the Human Rights Act and the European Convention on Human Rights.

In Principle a, the phrase "inter-faith relations" does not capture the breadth of 'religion or belief', since it refers only to faiths, not to non-religious beliefs and rejection of religious beliefs. Better to say: 'relations between people of different religions and beliefs'.

Principle b should be split in two: : protection of the young is important and quite separate from allowing parents to exercise choice in their children's moral and philosophical education - which itself might be better referred to as 'education related to matters of religion or belief'.

In definition a, the final phrase 'including belief in the non-existence of deities' would be better expressed as 'including non-religious beliefs and the rejection of beliefs'.

In proposed rule 15.3 'Broadcasters must be satisfied' should be changed to the active form 'must satisfy themselves'.

In proposed rule 15.4 ("Television and television text advertisements must not promote psychic practices or practices related to the occult, except those permitted by rule 15.5. Radio advertisements may promote psychic and occult practices but must not make efficacy claims. Psychic and occult-related practices include astrology, personalised horoscopes, palmistry, fortune-telling, tarot, attempts to contact the dead, divination, clairvoyance, clairsentience, the invocation of spirits or demons and exorcism.") what is an efficacy claim? Would a statement or implication that 'we carry out exorcisms' or 'we can put you in touch with the dead' be considered efficacy claims? Such advertisements should be required to specify that they are offering entertainment or else to state that their claims are disputed and speculative.

In proposed rule 15.5 ("Television and television text advertisements may promote services that the audience is likely to regard merely as entertainment . . .") a requirement should be included that they state that the services are offered for entertainment.

In proposed rule 15.10 ("Advertisements must not denigrate the beliefs of others.") the words "or lack of belief" should be added before "of others".

Question 90 - Given BCAP's policy consideration, do you agree that 15.11, which presently applies to radio advertisements by or that refer to charitable faith-based bodies and that appeal for funds, should also cover those TV advertisements? If your answer is no, please explain why.

Yes, 15.11 should cover TV advertisements as well as radio. However, rule 15.11 is (1) unsatisfactorily worded and (2) unsatisfactory:

(1) (a) "Charitable purposes" include evangelism: all religious purposes are in principle recognised as charitable. Religious charities as a totality are only rarely therefore concerned with disadvantaged

third parties. The rule should therefore state: “Advertisements must not appeal for funds, except for the purpose of helping disadvantaged third parties.”

(b) Requiring broadcasters to “seek [to] be satisfied” is a very loose formulation, and funds being used solely for the benefit of the specified groups would rule out the activity being accompanied by evangelism.

Rule 15.12 should continue to include the (recently) separated along with the elderly, the sick and the bereaved as examples of people who are especially vulnerable.

Question 91 - Given BCAP’s policy consideration, do you agree that 15.2.3 should apply to radio as it presently does to TV? If your answer is no, please explain why.

Yes, 15.2.3 should apply to radio as it presently does to TV.

Question 92 – Given BCAP’s policy consideration, do you agree that faith advertisements, which appeal for funds for charitable purposes that include or will be accompanied by recruitment or evangelism, are acceptable if that information is made clear in the advertisement? If your answer is no, please explain why.

We disagree that the present ban in rule 10.7 on any associated evangelical activity should be lifted. Appeals for donations for an uncontroversial purpose (relief of poverty, etc) should not be the means of raising funds for evangelism, even if the possibility is acknowledged.

Question 93 – Given BCAP’s policy consideration, do you agree that present radio rules 3.10 and 3.11, of section 3, need not be included in the proposed Code? If your answer is no, please explain why.

Yes.

Question 94 – Given BCAP’s policy consideration, do you agree that present TV rule 10.9 need not be included in the Code? If your answer is no, please explain why.

We disagree: the present TV rule 10.9 should be included in the Code. The objective of the present rule will not be achieved by such a vague rule as 1.2 – many religious advertisers would see it as wholly consistent with a sense of responsibility to include long extracts from religious services in advertisements if they saw advantage thereby.

Question 95 - Given BCAP’s policy consideration, do you agree that present TV rule 10.10 should not be included in the Code? If your answer is no, please explain why.

No. Rule 10.10 suggests that testimonials and references to personal experiences or personal benefits associated with a doctrine should be primarily treated with the utmost caution – presumably because such activities can be very harmful to some. Even if a personal testimony is ‘true’, that is highly subjective and could be construed as applying to others. Further, the policing of this will be next to impossible – testimonials from such people will be atypical and will mislead others whose relevant belief is not deep-rooted and who are therefore unlikely to experience the same outcome

Vulnerable people will be the most greatly affected and influenced by suggestions of emotional benefits derived from religion or religious activity and are concurrently most at risk of being duped or coerced into supporting or taking part in particular religious activity. Keeping 10.10 in will help to prevent harm especially to the most vulnerable.

Question 96 –

i) Given BCAP's policy consideration, do you agree that present TV rule 10.11 should not be included in the Code? If your answer is no, please explain why.

ii) Given BCAP's policy consideration, do you agree that 15.13 should be included in the Code? If your answer is no, please explain why.

i) and ii) We do not agree that 10.11 should not be included in the Code or that 15.13 should be included in the Code. The difference between claims of treating, curing or alleviating physical or mental health problems and claims that faith healing, miracle working or faith-based counselling can benefit emotional or spiritual well-being will have to be a matter of interpretation. There is no evidence at all for miracles and so on but much evidence for the harm that is caused by claims that they happen and by many activities such as "faith healing". Counselling by religious groups – especially those likely to advertise – will usually be based on religious doctrine, often restrictive and punitive with heavy threats of suffering in the supposed afterlife and could easily therefore have a negative effect on subjects. Advertising counselling services will be designed to bring new people within the orbit of the religious group: there are far easier ways for them to reach their own followers.

Moreover, how a religious group defines "spiritual healing", for example, may be very different to what those outside that group understand it to mean. For matters so serious as decisions to allow claims of the efficacy of faith-based interventions to be included in broadcast advertisements to rest on subjectivity is simply not sufficient to protect vulnerable people.

Question 97 – Given BCAP's policy consideration, do you agree to maintain the existing TV and radio requirements on advertisements for products or services concerned with the occult or psychic practices? If your answer is no, please explain why.

Yes. We agree that the existing TV and radio requirements on advertisements for products or services concerned with the occult or psychic practices should be maintained – but an alternative policy would be to lift all restrictions on such advertising provided either its products had been proven effective in double blind trials or the advertisements stated prominently that the services were offered only for entertainment.

Question 98 –

i) Taking into account BCAP's policy consideration, do you agree that BCAP's rules on Faith, Religion and Equivalent Systems of Belief are necessary and easily understandable? If your answer is no, please explain why?

ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed rules that are likely to amount to a significant change in advertising policy and practice and are not reflected here and that should be retained or otherwise be given dedicated consideration?

iii) Do you have other comments on this section?

No comments.