



wiggin

# Expert insight

on advertising, marketing  
and sponsorship



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# Introduction

The advertising industry continues to grow. We're seeing more and more content marketing, data continues to be of central importance and regulation is on the rise. For rightsholders, sponsorship revenues remain a key line in the balance sheet, yet sponsors want more return on their investment.

Our team advises creators and distributors of advertising content, tech platforms that facilitate its distribution and those who want to know how to stay within the regulations (or how far they can push them). We love understanding the challenges that our clients in this industry face and we love being part of the team that creates the solutions.

This publication showcases a collection of our thoughts in some of the areas in which we work. We hope that this will spark your own thinking and spur you on to get to grips with your new and trickiest problems – we'd be really excited to break new ground together.



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## Advertising and the metaverse

Following Facebook's announcement that it was changing its name to Meta, the concept of the 'metaverse' has captured the imagination of the internet.

Due to its nascency, the metaverse has yet to be fully defined and it's likely that many companies will have a hand in its development. Elements of the metaverse are likely to affect a combination of sectors not yet fully explored – virtual gaming worlds, digital economies, and virtual and augmented reality.

### New universe, new regulations?

Many of the issues for advertisers wanting to explore the metaverse are not new – however they are likely to be heightened due to the high levels of immersion, blurring of real and digital and the development of new technologies.

The UK's Committee of Advertising Practice (CAP) has already released a brief blog on the metaverse (with the pithy title "Things can only get Meta")<sup>1</sup> which touches upon the issues they expect to see.

### What issues should advertisers prepare for?

One of the largest pain points for advertisers is likely to be around the blurring of commercial and non-commercial content. CAP already has guidance around 'advertorials', social media disclosures and the blurring of marketing and gameplay in video games. How this guidance (and advertiser practice) develops to account for potentially varied and deeply immersive metaverse environments will be significant.

Advertisers will also need to consider the targeting of under 18s. This issue is likely to go hand-in-hand with other consumer issues such as privacy and online safety. It's probable that this will hinge on how users sign-up, enter and 'move' within a metaverse (possibly even moving between multiple metaverses). Will certain metaverses be barred for under 18s? Will targeting technology develop so the same metaverse can 'display' different adverts depending on the user's age?

Finally, advertisers will have to consider how they include material information in a metaverse context. For complex topics such as cryptoassets, assessing how the material information can be included in advertising has been a hurdle. Again, how advertisers achieve this is likely to depend on the technology available.

With brands already snapping up virtual land in The SandBox<sup>2</sup> and Selfridges creating immersive shopping experiences with Pokémon<sup>3</sup>, advertisers will no doubt continue exploring the metaverse as it progresses, along with all its issues and opportunities.



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<sup>1</sup> <https://www.asa.org.uk/news/things-can-only-get-meta-a-brief-guide-to-ad-regulation-in-the-metaverse.html>

<sup>2</sup> <https://www.sandbox.game/en/>

<sup>3</sup> <https://www.selfridges.com/GB/en/features/articles/selfridges-loves-charli-cohen-pokemon-electriccity/>

## The changing face of mobile advertising

Advertising powers a booming mobile games market, but commercial and regulatory hurdles are forcing marketers to rethink their strategies.

Personalised marketing is one of the most effective ways to maximise user acquisition efforts in a highly saturated market. However, Apple's updates in the use of the Identifier for Advertisers (IDFA) gives its users increased control over the privacy of their data, making personalised advertising much harder for advertisers to use.

### What do these changes mean for advertisers?

The IDFA is an identifier assigned to a user's device used to track and identify them without revealing their personal information. Apple's IDFA changes will require mobile app publishers to ask for user permission for tracking and accessing device identifiers. The new transparency framework requires, for example, that the IDFA is turned off by default and easier to find in the device settings.

Google has since similarly adjusted its own privacy features with its Android Advertising ID. The impact of these changes are expected to be far-reaching, with Facebook suggesting it could reduce advertiser revenues by 50%.

Sensor Tower reports<sup>4</sup> that despite concerns about the impact of the IDFA changes, many mobile game advertising networks are in fact seeing an uptick in the effectiveness of advertising, but acknowledges that the long-term impacts are yet to be seen.

### Are there any changes from a regulatory perspective?

The UK Government is consulting on increasing regulatory oversight into paid-for online advertising through its launch of the Online Advertising Programme (OAP).

The OAP aims to tackle the 'evident lack of transparency and accountability across the whole supply chain', as the Government has deemed that the Advertising Standards Authority's self-regulatory model has failed to adequately address the rapid growth of digital advertising. For more information on the OAP, see page 8.

This consultation stands to affect the online advertising sector and every part of the industry should be keeping this on their radar.



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## TikTok: taking the social media scene by storm but stronger advertising regulation is coming

Unless you've been hiding under a rock, you've likely noticed TikTok's meteoric rise to become a behemoth amongst social networking apps.

The app, owned by Chinese technology company ByteDance, enables users to create and post short-form videos which are shared on the platform. The app presents an algorithmically tailored video feed to users via the 'For You' homepage, and boasts diverse content with categories ranging from comedy to cookery.

TikTok is unique to its competitors (such as Meta and Snapchat) as it offers a content-driven approach that appeals to users regardless of whether their peers are on the app. It's grown faster than any other social network<sup>5</sup> and was among the greatest beneficiaries of UK lockdown measures - 18-24 year old user minutes doubled in April 2020 compared to February, and this level has largely maintained since. In contrast, Snapchat and Meta's minutes for this demographic have declined.

### Advertising revenue gains

TikTok has an advertising focused business model and has become a lucrative and attractive outlet for advertisers. Generating almost \$4 billion in ad revenue

last year, and seeking to triple that to at least \$12 billion this year, TikTok has harnessed its status as a global user phenomenon to develop into a serious online advertising business.

### Regulatory change

Social media platforms such as TikTok may not have welcomed the news that the UK government intends to review and potentially reform regulation of the online advertising ecosystem under its Online Advertising Programme (OAP).

On 9 March 2022, the government launched a consultation to review the current regulatory regime for paid-for online advertising. The government is concerned that the rapid development of digital technologies has transformed the scale and complexity of online advertising, leading to increased consumer harm.

The current regulatory regime (regulated by the Advertising Standards Authority (ASA)) primarily holds advertisers responsible for preventing consumer harm. The OAP wants to ensure that all players across the supply chain play a role in reducing harms created by online advertising.

Ad-funded social media platforms that attract consumers by offering their core services for free (like TikTok) are within the scope of the OAP.

### What are the next steps in the process?

The OAP consultation set out the government's understanding of the online advertising ecosystem, priority areas of concern and requested stakeholder views. The OAP plans to publish its recommendations in due course.

The options being considered for reforming online advertising regulation include:

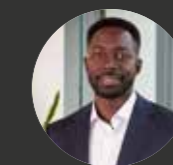
- i) expanding the current remit of the ASA's self-regulatory approach,
- ii) introducing a statutory regulator to backstop more fully the self-regulatory approach, or
- iii) abandoning the self-regulatory system altogether and appointing a statutory regulator to put in place a full statutory system of online advertising regulation.

### What do platforms need to do?

Future steps that platforms like TikTok may need to consider include:

- designing the platform to make it easier for people to label and report advertising
- establishing strong policies regarding the type of advertising permitted on the platform
- carefully managing the operation of ad tech and artificial intelligence on the platform

Platforms should begin to closely inspect their advertising practices to ensure they won't need to make significant changes – stronger regulation is coming, and preparation will be key.



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<sup>5</sup> TikTok joined the billion users club in 2021 four years after its global launch, reaching this milestone in half the time that it took Facebook, YouTube or Instagram and three years faster than WhatsApp

## To endorse or not to endorse? Effectively managing the risks and rewards of celebrity endorsements

Celebrity endorsements boost the profile and value of brands - their faces launch a thousand sales.

So valued is an endorsement that we hear almost daily of the latest celebrity whose image has been used by scammers to exploit the public: Kate Middleton for a non-existent face cream, Martin Lewis for cryptocurrency. Advances in technology mean that, alarmingly, videos can be produced appearing to show a celebrity giving their endorsement. Recently a deepfake of an interview with Elon Musk, in which he appeared to endorse a cryptocurrency, led to members of the public losing money.

The government is taking action to address some of these problems before the public becomes so distrusting of endorsements, particularly online, that they aren't worth the investment. Thankfully, we're not there yet but these episodes are cautionary reminders that celebrity endorsements are a notoriously tricky area, requiring careful management of risk and relationships. Get it wrong and brands can struggle to recover.

### Maintaining flexibility

It's critical to ensure a celebrity endorsement deal is on favourable terms.

The ability to easily and effectively cut ties if things go wrong is essential. But termination might not always be the answer. There may be room for creative and flexible drafting to allow you to respond dynamically to the circumstances.

Take Johnny Depp: after he lost his libel claim against The Sun in the UK, it looked impossible for him to reclaim his commercial value. Fast forward 18 months and an online petition calling for Depp to reprise his role in the Pirates of the Caribbean franchise has 800,000 signatures.

The public's mind is fickle, celebrities' stock goes up and down, so brands might want to think twice before severing ties completely even when all seems lost. Sometimes all that's needed is the right tools to weather the storm which could be achieved simply by a right to put a partnership on hold.

### Marking your territory

Care at the contracting stage is also important to ensure the agreed scope of rights is clear.

Talent should give assurances that no competing or overlapping rights have been granted and that they will take steps to ensure their images are not misused.

If a brand perceives talent is working with another offering in their sector, they're unlikely to attack the celebrity but the brand that has encroached into their territory.

### Protecting your reputation

Control over how the celebrity communicates their support is also increasingly key.

In June 2022, former football star Michael Owen deleted a tweet about NFTs that he was endorsing after he was contacted by the Advertising Standards Authority.

If a partner breaches regulations, or infringes copyright, the associated brands' reputation is at risk.

A well-placed and timed partnership can lead to huge gains but if we were to endorse any message in this area it would be this: aim for the best and prepare for the worst.



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## Top tips when entering into a sports cryptocurrency sponsorship

Cryptocurrency brands are shaking up the sports sponsorship world by spending significant sums on high profile partnerships with teams, leagues and athletes.

Understandably, rightsholders are taking note – however, given the nature of these deals, both parties should be aware of the risks involved from a legal, regulatory and compliance perspective.

### Do your due diligence

This shouldn't differ significantly from the usual due diligence before entering into any sponsorship. Rightsholders should bear in mind that the cryptocurrency industry is still in its relative infancy (compared to the industries of some of the more traditional sporting sponsors) which naturally makes the financial and legal risks of the partnership more difficult to assess. As part of their due diligence, rightsholders should put a plan in place to respond to any PR backlash from its fans once the partnership is announced.

### Payment

Rightsholders should consider appropriate protections if any part of the sponsorship fee is to be paid in cryptocurrency. It's common for a larger proportion of the sponsorship fee to be paid upfront if accepting payment in a particularly volatile cryptocurrency. Rightsholders should also consider whether they wish to retain the cryptocurrency as an investment or exchange it immediately for a fiat currency.

### Scope

To avoid breaching any exclusivity restrictions in their existing sponsorships, rightsholders should consider exactly what type of partner they are looking for. Is it a cryptocurrency trading platform, a blockchain technology provider or a third party who can deliver cryptoassets to its fans?

### Legal protections

As with any sports sponsorship, rightsholders should ensure they have robust termination rights if the sponsor fails to pay (especially if payment is in cryptocurrency) or brings the club/league into disrepute. As regulation in the UK is beginning to catch up with the commercial realities of these deals, rightsholders should request appropriate assurances from the sponsor that they will comply with all applicable regulation and will obtain all necessary licences/permissions that may be required in the future.

### Conclusion

While the cryptocurrency sector is fast becoming a major player in the sports sponsorship world, all parties should enter into these agreements well versed on the potential pitfalls and should keep up to date on the ever-changing UK regulatory landscape.



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# Don't let your brand be hidden under an (am)bushel

Like it or not, ambush marketing campaigns tend to capture media attention, but they pose tricky issues for all involved.

Ambush marketing is a deliberate attempt by a brand to take advantage of a high-profile event to obtain publicity without being an official sponsor.

An interesting example of ambush marketing was the Bavaria beer campaign at the 2006 World Cup. Dutch fans who purchased 12 cans of Bavaria beer were able to buy orange lederhosen bearing the Bavaria logo for €7,95, which supporters took to wearing whenever the Netherlands took to the pitch. FIFA officials at a stadium in Stuttgart required spectators to remove the garish trousers, leaving 1,000 supporters in their underwear. At the time, some questioned FIFA's actions, but it's worth noting that the American brewery that makes Budweiser was an official World Cup sponsor.



## Why does it matter?

Brands invest significant sums to become an official event sponsor, often securing the right to be the exclusive supplier of specific goods and services. If ambush marketing is carried out by a competitor, it may cause significant damage to an official sponsor's marketing campaign, including through loss of sales. However, even if ambush marketing campaigns are undertaken by brands in different markets, they can erode the exclusivity which event sponsors pay for. There is, therefore, every reason for brands to take action.

## What can be done?

There is currently no legislation in the UK which specifically addresses ambush marketing, but there are other means of protection.

## Prevention is better than cure

Acting early when planning event sponsorship can help to ensure that ambush marketing is prevented, and that means of redress are available if it does occur. When negotiating sponsorship deals, brands should look to include contractual provisions which oblige the event organiser to take measures to minimise the risk of ambush marketing and to take action (including legal action) if it occurs. Sponsors should also look to ensure that ticket terms and conditions prohibit ambush marketing and that venues are obliged to keep a close watch over the events they host to ensure any ambush marketing is addressed swiftly.

## Intellectual property rights

IP rights provide a useful means of deterring ambush marketing, and also provide the means by which the event organiser or the sponsoring brands may be able to take action, depending on the specific circumstances:

- brands can rely on their registered trade mark rights, and event sponsors may be able to rely on registrations for official event logos and slogans, to bring an action for registered trade mark infringement if the ambush marketing is taking unfair advantage of the brand's or the event's reputation;

- event mascots and elements of event branding may be protected by copyright and/or by design rights such that it may be possible to bring an action for copyright infringement or design right infringement if the mascots or branding are reproduced by ambush marketers;
- if an ambush marketer is misrepresenting their involvement in an event, or is causing confusion amongst the public as to whether they are an official sponsor, it may be possible to bring an action for passing off.

The types of events which tend to be subject to ambush marketing are high profile and time limited, meaning that it's imperative for brands and event organisers to take immediate action. In some cases, a letter before action may be sufficient to bring the ambush marketing campaign to an end. However, in the most serious cases it may be appropriate for the brand or event organiser to seek a preliminary injunction to try to put an immediate stop to the ambush marketing campaign, pending full legal proceedings.

## UK advertising standards

Brands and event organisers may also have recourse under the CAP and BCAP advertising codes, as well as consumer protection legislation, to prevent misleading advertising.

## Conclusion

Given the value of sponsorship deals, brands should put a strategy in place to minimise the risk of and to address ambush marketing, to ensure that their investment is protected.



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## Brand funded programming: skip to the content

The traditional commercial model of interruptive television advertising always had an achilles heel. Adverts can be easy to ignore. The start of the ad break is still for many the time to put the kettle on, check messages or contemplate the last fifteen minutes of the main event: the content.

With brand funded programming the advert becomes part of the content and therefore, part of the main event. For brands, the relationship with a consumer bought by thirty seconds of interruptive exposure is easily eclipsed by thirty minutes of integrated exposure.

### What is brand funded programming?

This term has broad application but generally refers to any arrangement in which a company pays to integrate their brand in a programme rather than paying for commercial ad spots. Examples include programme sponsorship, product placement and, increasingly, brands producing their own longer form content.

### Why now?

First seen in the 1930s, when laundry powder manufacturers invested in daytime radio drama and the soap opera was born, brand funded programming isn't new - but today's scale of demand from both broadcasters and brands is. From a broadcaster perspective, unprecedented demand for new programming from viewers coupled with falling advertising revenue and rising costs has left a gap in production budgets that brands are in a unique position to fill. From a brand perspective, such arrangements allow brands to tie in more closely with a programme which shares its values (an increasingly important consideration) and to piggy-back on the commercial success of a programme.



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### What are the main issues for brands to consider?

As with conventional advertising the Ofcom broadcasting code rules must be followed. The transactional affiliation must be clear. Content must remain editorially independent, and the programming content or schedule should not impact broadcaster's independence.

There are multiple ways for brands to participate in brand funded programming. It may be that a broadcaster briefs production partners to find an appropriate brand for future or pre-existing content or a brand seeks out a project that fit their values.

Brands want to know that the content they are funding will not radically change during production and that the brand's input and values will be perceptible to a viewer.

All parties want a clear contractual understanding of the key commercial terms, including distribution, rights of publicity, promotion and third-party licensing.

Considering these points early will save time and possible strife down the line.

## Do the VSP rules really level the playing field?

The revised audiovisual media services Directive (AVMSD) led to the UK's introduction of regulatory requirements for video-sharing platforms (VSPs).

Under these rules, providers of VSPs are required to take measures to protect under-18s from harmful content in videos and protect users from videos containing content that incites violence or hatred, and certain types of illegal content. These general requirements apply to all VSP videos, as well as advertising.

### What does this mean for adverts on VSPs?

There are several specific advertising requirements, many of which are common to the Broadcasting Code and/or B/CAP Codes.

For example, adverts included on a VSP must be readily recognisable as such, and must not use techniques which exploit the possibility of conveying a message subliminally or surreptitiously.

### Do the requirements now match those for TV?

On first look, the requirements for VSPs seem to fall short of the advertising requirements for television - the prohibited categories of advertising are certainly more limited. Yet, while the rules are certainly light touch versus linear television, the new requirements will ensure that users have far more insight into whether advertising is present in the content they are watching.

For example, VSP providers are now required to provide functionality for users who upload content to declare the presence of advertising, and ensure that users who upload content make use of this functionality as part of the terms and conditions of the service. This includes sponsorship and product placement which are included in the definition of "audiovisual commercial communication" within the AVMSD.

In addition, VSP providers must clearly inform users that a video contains advertising where they have knowledge of this, or its presence has been declared by the uploader using the functionality provided.

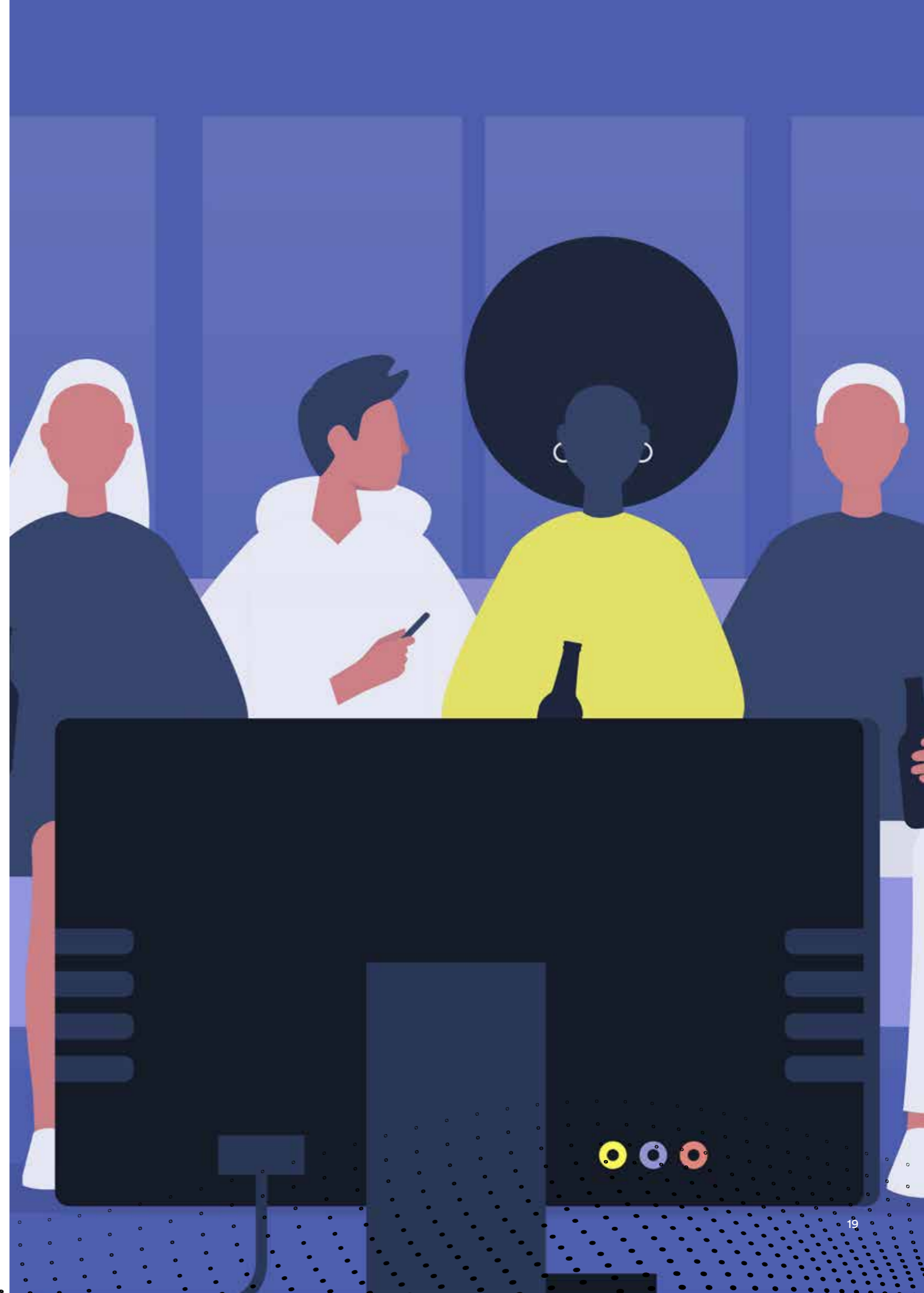
So, while the permitted advertising on platforms like YouTube and Twitch is broader than that of linear television, the VSP rules do go some way to at least start to hold VSP providers to account and make advertisers and other uploaders understand the importance of advertising recognition.



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## New guidance on in-game purchases: evolution or revolution?

As with many things that grow in popularity, the video games industry is becoming an increasingly regulated space. This is most recently demonstrated by new guidance released by UK advertising regulators around in-app purchases which focus on how these are displayed in-game and communicated in marketing materials.

While brief, the new CAP guidance<sup>6</sup> has the potential to generate significant shifts in current industry practice and is relevant to all games businesses globally that have users in the UK.

### Key takeaways

The guidance will likely evolve over time as it starts being enforced. Below are some of the most important points to note at this stage.

### Virtual Currencies

The guidance makes a distinction between:

1. virtual currencies that are only obtainable by purchasing with real-money, and
2. virtual currencies that can be bought with real money and earned in-game.

The new guidance generally only applies to the former.

The true cost of virtual currency purchases must be clear, particularly for 'bundled' content. The real-world value of in-game items must also be clear. That said, the guidance does not elaborate on what degree of granularity is required for either.

Odd-pricing (i.e. where currency bundles on offer do not match the increments of currency required to purchase items) is still permitted, but external game ads must disclose where the minimum purchasable currency bundle is higher than the smallest in-game purchase.

### Marketing messages

In-game ads should not place "undue pressure" on players to make purchases. For example, you should avoid unnecessarily short fail-state countdown timers and messaging suggesting that purchasing will lead to success. Loot boxes are not banned but messaging about odds of winning rare items must not be misleading. Claims that players almost obtained a rare/specific item to encourage additional purchases should be avoided.

Ads for games must not imply that features like items, cosmetics and levels that are only unlockable via additional purchase or through significant play time are obtainable immediately or for free.

### Enforcement

As with other CAP guidance, this will be enforced by the ASA. While the ASA itself does not have fining powers, it has operated successfully on a name and shame basis to-date. It also has the power to refer serious and/or persistent offenders to other regulators such as the Competition and Markets Authority which have more significant powers.

The grace period offered by the ASA for in-game content ended in March 2022. Any businesses caught by the guidance should therefore take steps to comply as soon as possible to avoid being hit by a complaint.



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<sup>6</sup> <https://www.asa.org.uk/resource/guidance-on-advertising-in-game-purchases.html>

# Tuning in to programmatic audio advertising

Programmatic audio advertising is where advertisements are sold and inserted into audio content including podcasts, digital radio and audio streaming services.

Programmatic audio advertising allows advertisers to improve targeting, which ultimately leads to greater campaign success. It works in the same way as display programmatic advertising, which uses AI algorithms to strategically distribute ads based on user behaviour and interests.



## Why might a brand consider an audio advertising campaign?

The audio space saw massive growth during the pandemic, with many of us increasing our engagement with audio entertainment. This is set to rise as we continue with our always-connected and always-consuming ways.

As the audio space grows, so too does the ability to broadcast audio advertising, which is attracting the attention of brands due to the potential for distraction-free engagement with audio consumers.

## What are the issues from a data protection perspective?

The broad range of devices and players that audio ads can be served on means that there is a varying scale of 'addressability' (or the ability to obtain consent from the listener).

This ranges from players controlled by the media owner (e.g. Spotify), that can implement consent mechanisms, to screenless devices such as smart speakers (e.g. Alexa) where there is no way of implementing consent mechanisms.

Aside from the players controller by the media owners, there isn't a huge amount of first party data available.

The audio players have considered how they can create contextual categories (e.g. podcast subject, music genre, radio channel) which, without requiring personal data of the listener, can infer certain behaviours or interests that can then be used to make assumptions about the listener's interests and inform advertiser's targeting strategies.

## Is audio advertising as effective as display advertising?

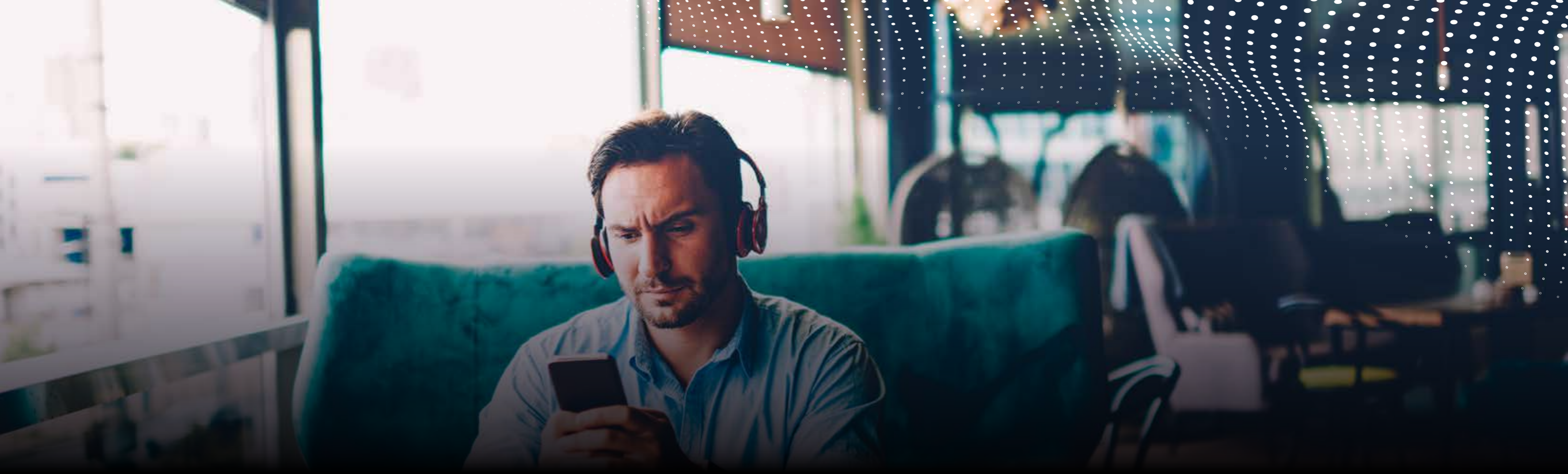
This is hard to say as measurement is a key challenge for the audio advertising industry.

Due to the nature of audio consumption, it's difficult to measure the levels of engagement (traditionally captured through 'clicks' in display advertising) and the success of campaigns. Although, arguably, audio ads could be considered more premium by advertisers given they don't compete with the listener's attention in comparison to display adverts, which undoubtedly increases engagement.

In light of the demise of third-party cookies, brands are having to rethink their strategies for collecting and sorting consumer data and so, if brands can accept a less meaningful means of demonstrating impressions, audio advertising is likely to be of increasing interest.



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## Enhancing your advertising with music

If you want to connect your brand with a particular demographic, you'll be familiar with the power of music to drive engagement.

Whether you aim to run your ad (or other production) on TV or a digital platform, as soon as you're incorporating music into visual media, there are several rights to consider.

### What rights are you talking about?

The rights in question are copyright in the recording, copyright in the underlying musical work and lyrics, performers' rights, and moral rights.

Potential licensees should obtain a 'master use' licence for the sound recording (usually granted by the record label) and a 'sync' licence for the song, granted by the music publisher(s).

These licences allow for the incorporation of relevant elements of the music into your advertisement, as well as the right to create copies and to communicate the final advert incorporating the music to the public (e.g. via TV or an internet platform). These rights will be licensed under specific terms which will differ depending on the usage in question.

### What rights are included in a master use licence?

It's important to remember that this type of licence is granted for specific agreed uses which determine the fee payable. Having a clear idea of all aspects of your marketing campaign before contacting the relevant rightsholders is advisable, so you only pay for the rights you need.

Some rights may also be held back from the master use and publishing licences to be licensed instead to the channel or platform carrying the production by way of collective licensing, such as through PRS or PPL.

The nature of the withheld rights is largely dependent on industry practice, and varies depending on the type of production (e.g. a game; a film; an advert), the way it will be exploited (streaming; download; broadcast) and the type of right (musical work; recording).

The platform carrying your advert will expect an appropriate set of music clearances for the production and, if any are missing, it could result in the platform refusing to carry and distribute the ad.

### What if we want to "upgrade" into a brand partnership with the artist?

When considering a marketing campaign, some advertisers explore the potential brand value that an artist could deliver beyond just the music.

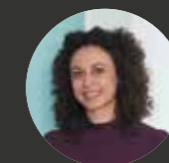
If the artist's personal appearance or endorsement is agreed, further rights will be required from the artist which could include the artist's performer's rights and moral rights as well as the right to use their name and likeness.



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## Gambling advertising – missing the target?

Much time has been devoted to the discussion of whether gambling advertising should be prohibited or restricted. 80% of gambling marketing activity is now online, with the industry spending a reported £1.2 billion annually on advertising. However, data as to the efficacy of such advertising is inconclusive.

Gambling advertising can be viewed by everyone, and this visibility raises three main issues.

Firstly, there will always be pockets of society who (as is their right) disagree with gambling and any advertising of it.

Secondly, a key tenet of the Gambling Act 2005 is to prevent children and vulnerable people from being exposed to, or encouraged to become involved in, gambling. While the content of gambling adverts can be adjusted accordingly, the viewing audience remains largely outside an advertiser's control.

Yet, a bigger concern – or rather, opportunity – is squarely within operators' grasp; despite escalating marketing spends, the data does not show a marked increase in revenues. Gambling adverts tend to crowd each other in their bid to gain existing customers' attention rather than appealing to a new client base. Does targeted advertising hold the answer?

### What is targeted advertising?

Targeted advertising is a serious tool in the marketer's arsenal, allowing operators to:

1. reduce the volume of adverts seen by the general public
2. protect children and vulnerable people from viewing promotional content, and
3. finesse the content of adverts to appeal to a wider spectrum of both existing and new punters.

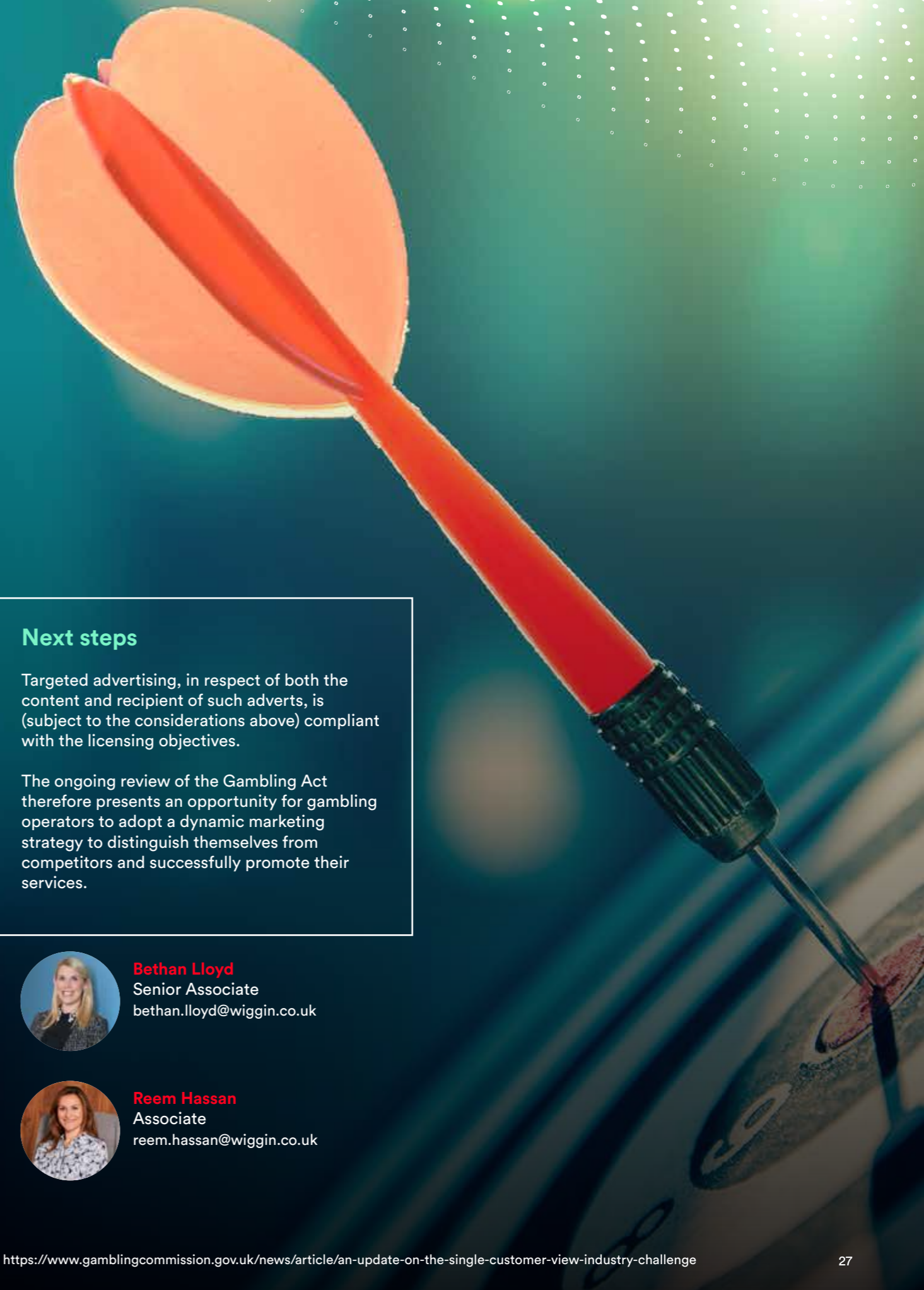
Unfortunately, it's not quite that simple.

### What are the core issues with targeted advertising?

The main hurdle for targeting new customers is the basis on which such data is obtained. In addition to the overarching requirement to comply with data protection legislation, two serious issues arise.

Firstly, without proper inter-operator data sharing (the proposed 'single customer view'<sup>7</sup>), it's incredibly difficult to determine whether those targeted are self-excluded from other operators. If gambling advertising matures to encourage new customers to gamble, targeting those who are self-excluded is problematic.

Secondly, while analytics can paint a reasonably accurate picture of a proposed customer, they aren't foolproof. Collating data about someone's internet activity can't give certainty as to that person's age. Targeting them with gambling advertising creates a very real risk that a child may be unlawfully advertised to in breach of that operator's licence.



### Next steps

Targeted advertising, in respect of both the content and recipient of such adverts, is (subject to the considerations above) compliant with the licensing objectives.

The ongoing review of the Gambling Act therefore presents an opportunity for gambling operators to adopt a dynamic marketing strategy to distinguish themselves from competitors and successfully promote their services.



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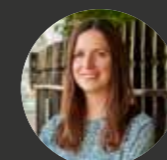
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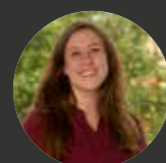
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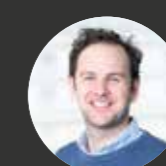
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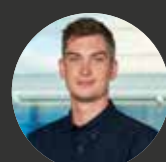
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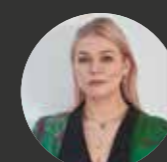
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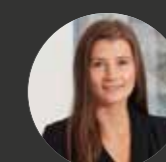
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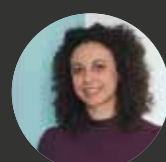
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