

## Consultation: Post conception advisory services (PCAS) INDIVIDUALS

<b>Evaluation Table</b>			
<b>CONSULTATION QUESTION:</b> Do you consider that the proposals taken as a whole including the new rule 11.x constitute proportionate measures to balance the freedom of legally available family planning services to advertise with the need to provide women with appropriate information to make informed choices about options available in cases of unplanned pregnancy and to provide adequate protection for vulnerable people?			
	<b>Respondent making points in favour of the proposal:</b>	<b>Summary of significant points:</b>	<b>BCAP's evaluation:</b>
<b>1</b>	Member of the public	I support the 4th proposal with a modification- it is entirely reasonable that every organisation advertising should state whether or not terminations are directly provided. So organisations not offering support services for women who wish to keep a pregnancy should state that.	<p>BCAP considers that there are strong public health grounds to introduce an additional rule that all PCAS, whether they be commercial or otherwise, to state whether they refer women directly for termination. BCAP notes that the introduction of that requirement accords with the view of the Report of the House of Commons Science and Technology Committee on the Scientific Developments Relating to the Abortion Act 1967 recommended which states that "to ensure that no patients are misled, we ... recommend that the Government consider ways of ensuring that all those claiming to offer pregnancy counselling services ... indicate clearly in their advertising that they do not support referral for abortion."</p> <p>BCAP considers that women considering their options require special protection under the Code and that the introduction of 11x minimises the risk of complication which may be caused by a delay in a referral for termination. As the Consultation Document explains, the new rule will only apply to PCAS which offer advice on unplanned pregnancy and not services that may offer other advice, such as on home births.</p> <p>BCAP considers that there are strong public health grounds to introduce an additional rule that all PCAS, whether they be commercial or otherwise, to state whether they refer women directly for termination. BCAP notes that the introduction of that requirement accords with the view of the Report of the House of Commons Science and Technology Committee on the Scientific Developments Relating to the Abortion Act 1967 recommended which states that "to ensure that no patients are misled, we ... recommend that the Government consider ways of ensuring that all those claiming to offer pregnancy counselling services ... indicate clearly in their advertising that they do not support referral for abortion." BCAP does not consider it proportionate to require all PCAS providers to indicate whether or not they offer additional counselling or services for women who decide to proceed with their pregnancy.</p>
	<b>Respondent making points against the proposal:</b>	<b>Summary of significant points:</b>	<b>BCAP's evaluation:</b>
<b>2</b>	Members of the public	<ul style="list-style-type: none"> <li>▪ Abstinence should be promoted over sex and PCAS</li> <li>▪ The Royal College of Psychiatrists has noted the heightened risk of the negative effects of abortion among women with mental health issues</li> <li>▪ The proposal will trivialise and normalise abortion</li> </ul>	BCAP considers that these are not comments on the proposed rule, which is specifically about PCAS and not advertisements for abortion.

		<ul style="list-style-type: none"> <li>▪ The proposal will increase the number of abortions carried out in the UK</li> <li>▪ Abortion is too controversial an issue to be advertised on TV</li> <li>▪ Abortion is murder and a criminal offence</li> <li>▪ Abortion is not like any other product or service, because it results in the death of a child and has potentially serious negative mental health consequences for both the mother and father of that child. In 2007 of Emma Beck, who committed suicide after suffering mentally because of her abortion experience (her own suicide note made it clear that abortion was the cause of her mental anguish).</li> <li>▪ Abortion goes against the Government's efforts to reduce teenage pregnancies - presently the highest in Europe - because more and more teenagers would regard abortion as a form of contraception.</li> </ul>	
3	Members of the public	<p>The Consultation Document speaks of "legally available services". The inference here is that legality takes precedence over other considerations. It is highly questionable whether all abortions performed in the UK are legal. Abortion essentially remains unlawful, decriminalised only if certain conditions set out in the Abortion Act, 1967 (as amended) are met. The fact that abortions in the UK are now in the region of 200,000 a year is a strong indicator that some clinicians are applying a very elastic interpretation to the 1967 Act.</p> <p>The statement "BCAP does not assume a moral standpoint on the termination of pregnancy." is noted. BCAP is however required to have a legal standpoint, and not permit misleading representations of the law. BCAP is not acting as a responsible entity if it simply advises advertisers to take legal advice.</p>	<p>The proposed rule relates to PCAS, not advertisements for abortion. As stated in the Consultation Document, PCAS can offer a range of services to women, including advice on health and well-being, provision of ultrasound services or advice about women's choice to continue with pregnancy or termination.</p> <p>In light of its consultation in 2009, BCAP has carefully considered objections that advertisements for PCAS indirectly promote treatment for termination which many respondents argued was illegal. As the Consultation Document sets out, the Abortion Act 1967, as amended by the Human Fertilisation and Embryology Act 1990, provides a defence for abortions in some circumstances. Abortion is therefore not illegal in all circumstances. The legal situation is, however, more restrictive in Northern Ireland. BCAP's proposals take account of this legal situation and recommend that broadcasters and advertisers seek legal advice before advertising.</p> <p>The proposed rule 11x underscores that advice and states:</p> <p>"Advertisements for services offering advice on unplanned pregnancy must make clear in the advertisement if the service does not refer women directly for a termination. Given that terminations are lawful only in some circumstances, and are subject to particularly stringent requirements in Northern Ireland, advertisers may wish to seek legal advice before advertising."</p> <p>BCAP does not consider that it is acting irresponsibly by encouraging broadcasters and advertiser to seek appropriate legal advice.</p>
4		<p>Draft rule [11.x] is unrealistic and by its nature will result in misleading advertisements. Advertisements will be confusing and misrepresentative of the services offered if there is a requirement to "make clear in the advertisement if the service does not refer women directly for a termination", but not also a requirement to make clear where a service does refer women directly for a termination.</p> <p>Moreover, the rule is misleading because it implies that a termination simply depends on whether there is a referral for a termination, rather than being subject to legal restrictions. The Consultation Paper and the Q&amp;A paper both seem to assume there is a right of "choice" regarding a termination, whereas there are only certain specific circumstances prescribed by law when a termination is</p>	<p>See BCAP's response to point 3.</p> <p>BCAP's proposal relates to the advertising of PCAS, not abortion. BCAP does not prescribe the content of advertisements but expects all advertisements to comply with the general requirements of the Code, e.g. not to mislead, harm or cause serious or widespread offence.</p> <p>BCAP considers that there are strong public health grounds to introduce an additional rule that all PCAS, whether they be commercial or otherwise, to state whether they refer women directly for termination. BCAP notes that the introduction of that requirement accords with the view of the Report of the House of Commons Science and Technology Committee on the Scientific Developments Relating to the Abortion Act 1967 recommended which states that "to ensure that no patients are misled, we ... recommend</p>

		<p>permitted. The proposed wording would permit advertisements which mislead vulnerable women into thinking that terminations are freely available. If such a rule is considered necessary, it should read:</p> <p>[11.x] Advertisements for services offering advice on unplanned pregnancy must make clear in the advertisement if the service refers women directly for a termination, and must make clear that a termination is not simply a matter of choice but is subject to specific legal restrictions.</p>	<p>that the Government consider ways of ensuring that all those claiming to offer pregnancy counselling services ... indicate clearly in their advertising that they do not support referral for abortion.”</p> <p>BCAP is of the view that women considering their options require special protection under the Code and that the introduction of 11x minimises the risk of complication which may be caused by a delay in a referral for termination.</p> <p>BCAP considers that the legality of proceeding with a termination and its implications are best discussed between the patient and the PCAS provider and cannot be addressed by BCAP.</p>
5		<p>The Human Rights Act enshrines the 'Right to Life', so I query whether such proposals might constitute an infringement in any event, and should also be taken properly into account.</p>	<p>See BCAP's response to point 3.</p>
6		<p>The consultation also seems to lean rather heavily on the working premise, inter alia, that services that are legally available can or perhaps should (prima facie) be the subject of advertising (subject to appropriate standards and safeguards etc.) so that the public has a full choice, and perhaps that the presentation of that choice is largely a value free exercise. I am not sure if that premise always hold true. Many things are legal but society (and/or legislators) nevertheless adopt measures to discourage rather than to promote them on grounds of morality, public interest etc. For example, drinking too much. Just because one can do that does not mean everyone should do it, least of all that it should be promoted (directly or indirectly).</p>	<p>See BCAP's response to point 3.</p> <p>BCAP notes that the existing advertising rules already allow some PCAS to advertise. BCAP considers that PCAS are legally available and have a legitimate right to advertise, subject to holding suitable credentials and making it clear to women whether they are able to refer them directly for termination.</p>
7		<p>The statement "BCAP does not assume a moral standpoint on the termination of pregnancy." is noted. BCAP is however required to have a legal standpoint, and not permit misleading representations of the law. BCAP is not acting as a responsible entity if it simply advises advertisers to take legal advice.</p>	<p>See BCAP's response to point 3.</p>
8		<p>The proposals favour PCAS that refer women for termination because PCAS that are non-commercial and offer other post-pregnancy support do not have the financial resources available to afford to advertise on TV.</p>	<p>It is not BCAP's role to ensure that one product or service is promoted over another. BCAP notes that the existing rules already allow some PCAS to advertise and considers that there may already be providers that are able to advertise but do not have the financial resources to do so. Whilst BCAP does consider the economic impact of its proposals, it is not an economic regulator and it is not its role to promote one sector of advertising. When making decisions BCAP must consider whether its proposals adhere to its general policy objectives and functions as set out in the Communications Act 2003.</p> <p>As detailed in the Consultation Document, BCAP does not anticipate any significant adverse economic impact stemming from its proposals. No providers indicated to BCAP in the previous consultation that they would be likely to advertise as a result of the relaxation of the rules on commercial PCAS, so BCAP has been unable to quantify the number of new providers that would advertise. Similarly, no providers who may benefit from the removal of the radio rule requiring approval by an NHS or Local Health Authority body, which may include faith-based organisations, have identified themselves as being likely to take advantage of the relaxation of the rules so this impact has been difficult to quantify</p>
9		<p>The proposal to require PCAS that do not refer women for a termination may deter viewers from seeking advice from those</p>	<p>See BCAP's response to point 1.</p>

		providers.	
<b>10</b>		BCAP's proposals would breach s 319 and 321 of the Communications Act 2003.	<p>The responsibility for the application of the rules that prohibit "political" advertising has not been contracted out to BCAP and remains with Ofcom. Section 7 of the BCAP Code sets out the basic provisions of the ban in section 321 of the Communications Act 2003 on advertising concerned with 'political' or publicly controversial matters. In summary, the ban prohibits both political advertisers and political advertising messages: no advertising may be placed by a body whose aims are wholly or mainly 'political'; and no advertising may be directed to a political end. In respect of the status of advertisers in this field, those whose aims may be wholly or mainly political (whether pro- or anti-abortion rights) would be assessed as they always would have been. As to the content of advertising in this area,</p> <p>BCAP's proposal relates to the advertising of PCAS in general, not directly for abortion. BCAP is confident that advertisements dealing generally with post-conception advice will not breach section 7 of the BCAP Code. When this proposed rule change was originally tabled during the 2009 Review of the Code Ofcom did not suggest that the proposal would breach section 7 of the BCAP Code or sections 321(2) or (3) of the Act. Furthermore in its September 2010 Finding on a Marie Stopes International advertisement <sup>1</sup>, which found the advertising to be compliant with section 321 of the Act, Ofcom stated that</p> <p>"More generally, Ofcom's view is that the mere fact of an advertisement referring to pregnancy placed by an advertiser that provides abortions – among other sexual health and reproductive services – and that has a commitment to, inter alia, women's access to abortion, does not bring the advertisement within the terms of either section 321(2)(a) or 321(3)(f)". <sup>2</sup>.</p>
<b>11</b>		Abortion advertisements are also likely to be in breach of section 4.2 of the BCAP Code which states that advertisements must not "cause serious or widespread offence against generally accepted moral, social or cultural standards".	BCAP's proposal relates to advertisements for PCAS, not abortion. BCAP considers that viewers who may be upset or offended by advertising for PCAS for a variety of reasons are afforded adequate protection under the Code rules which guard against offence and ensure that advertisements are scheduled sensitively. It is a general principle of BCAP's scheduling rules that special care should be taken when scheduling advertisements that might be unsuitable for children or young persons or the audience of religious programmes.
<b>12</b>		The proposed changes do not fit in well with the Code's general principles, particularly that an advertisement should not be harmful or offensive. This begs the question as to whether abortion is harmful. The answer is simple. Abortion is always harmful – it kills the unborn child. It is unfortunate that not-for-profit abortion providers are already being treated as being entitled to advertise on television. I would certainly not wish to see the field widened by the addition of commercial abortion providers. Indeed, it is well known that there are even greater dangers when the profit motive is brought on to the scene.	See BCAP's response to point 11.
<b>13</b>		The provisions of BCAP code Section 7 specify that BCAP refrain from sanctioning advertisements of a political nature influencing public opinion on controversial matters. This matter is both political and controversial.	The definition of 'political' advertising for the purposes of an advertiser's status and for the content of advertisements is set out in section 321 of the Communications Act 2003. The application of rules that prohibit 'political' advertising are the responsibility of Ofcom, and not something on which BCAP can comment.

<sup>1</sup> <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb166/issue166.pdf>

<sup>2</sup> Ibid

14		<p>Advertisements for abortion are likely to be in breach of section 11.21 of the BCAP Code which does not permit the advertisement of medical products or services available only on prescription. Abortion is likely to fall within this category as it is similarly not available on demand.</p>	<p>BCAP's proposal relates to the advertising of PCAS, not abortion directly. .</p> <p>BCAP Code rule 11.21 states:</p> <p>"Advertisements for these are not acceptable: medicinal products or medical treatments available only on prescription."</p> <p>BCAP therefore considers that an ad for PCAS is not an advertisement for a service available only on prescription</p>
15		<p>Those who believe abortion is murder will be offended by seeing abortion advertised on TV as a service.</p>	<p>See BCAP's response to point 11.</p>
16		<p>Women who have had abortions. While some women are comfortable with the choice they have made and have no regrets there are many others who would prefer not to be reminded of a painful episode in their lives whilst they are trying to relax watching television</p>	<p>BCAP's proposal related to PCAS, not advertisements for abortion.</p> <p>BCAP accepts that the advertising for PCAS has the potential to cause offence to viewers and listeners. BCAP also acknowledges that some viewers and listeners may be offended by the advertisement of PCAS if they associate the advertisement of PCAS with the provision of termination that a limited number of PCAS offer. However, BCAP considers that the existing provisions of the BCAP Code which prevent advertising which will cause serious offence, coupled with scheduling rules which require broadcasters to take special care when broadcasting advertisements, addresses the concern raised by respondents.</p>
17		<p>If PCAS are allowed to advertise on TV it means abortion services are treated as if they were any other service, when clearly they are not. This will have the harmful effect of normalising the treatment of children as wanted or unwanted products. There is widespread unease over the present abortion laws.</p>	<p>BCAP's proposal related to PCAS, not advertisements for abortion.</p> <p>BCAP does not consider that its proposal to expand the types of PCAS that can advertise on television and radio will trivialise the implications of termination. The general provisions of the Code will apply (i.e. that advertisements must not mislead, harm or be likely to offend audiences.)</p>
18		<p>I am convinced that life begins at conception and is a gift from God. That the very sanctity of life is seriously threatened by the termination of the unborn foetus.</p> <p>Abortion therefore involves the termination of an unborn human life. The actual procedure of abortion is a serious and risky medical procedure and because of this the practise of abortion remains highly controversial in our society and rightly so. That is why abortion requires signatures of two doctors. Therefore advertising of abortion services on television is clearly not the appropriate medium.</p>	<p>BCAP's proposal related to PCAS, not advertisements for abortion.</p> <p>BCAP accepts that the advertising for PCAS has the potential to cause offence to viewers and listeners, particularly those with strong religious convictions. BCAP also acknowledges that some viewers and listeners may be offended by the advertisement of PCAS if they associate the advertisement of PCAS with the provision of termination that a limited number of PCAS offer. BCAP considers that the existing provisions of the BCAP Code which prevent advertising which will cause serious offence, coupled with scheduling rules which require broadcasters to take special care when broadcasting around religious programming, addresses the concern raised by respondents.</p>
19		<p>The proposals taken as a whole including the new rule 11.x do not constitute proportionate measures to balance the freedom of legally available family planning services to advertise with the need to provide women with appropriate information to make informed choices about options available in cases of unplanned pregnancy and to provide adequate protection for vulnerable people</p>	<p>BCAP disagrees. BCAP has carefully considered the implications of relaxing the rules on the advertisement of commercial PCAS.</p> <p>BCAP notes that a number of PCAS already advertise on TV and radio and considers it legitimate for all PCAS to advertise subject to their credentials and the provision of information to women about whether or not they can refer women directly for a termination, which it considers offers adequate protection to vulnerable consumers.</p>

20		<p>Rule 11.x appears to be biased as it would require pro-life pregnancy advice centres to state in advertisements that they do not offer abortions, yet abortion providers will not be required to state that they do not offer advice on any alternatives other than abortion to women with unwanted pregnancies.</p> <p>It is unfair to expect pro-life groups to state that they do not refer for abortion and that the ones which give virtually no practical help to women who keep their babies do not have to state this.</p>	<p>BCAP considers that there are strong public health grounds to introduce an additional rule that all PCAS, whether they be commercial or otherwise, to state whether they refer women directly for termination. BCAP notes that the introduction of that requirement accords with the view of the Report of the House of Commons Science and Technology Committee on the Scientific Developments Relating to the Abortion Act 1967 recommended which states that “to ensure that no patients are misled, we ... recommend that the Government consider ways of ensuring that all those claiming to offer pregnancy counselling services ... indicate clearly in their advertising that they do not support referral for abortion.”</p> <p>BCAP considers that women considering their options require special protection under the Code and that the introduction of 11x minimises the risk of complication which may be caused by a delay in a referral for termination. BCAP considers there to be very specific health grounds on which to require PCAS to indicate whether they can refer a woman for a termination which do not equally apply to stating whether or not a woman could expect the provision of other services from a PCAS.</p>
21		<p>For there to be a truly informed decision made by women as to the options available to them, PCAS should declare the risks of abortion, yet there is no requirement to do so in the proposed rules changes. However, you do propose a requirement that organisations specifically state if they do not refer for abortions. Such organisations would tend to be ones that offer practical help for women in crisis pregnancy situations. Such a ‘warning stamp’ on an advert might deter women who are in need of such help. This is inequitable, as there is no requirement that organisations who only offer abortion and contraception declare that they do not offer practical help, such as baby clothes, prams, help finding appropriate housing, money etc.</p> <p>Your proposals risk exposing vulnerable women to organisations that make huge sums of money from providing abortions, regardless of their charitable status, and therefore have a vested financial interest in ensuring that the women who come to see them have an abortion. The proposed rules stigmatise pro-life PCAS who do not offer abortion and would further reduce what limited protection the most vulnerable member of our society, i.e. the unborn child, currently has.</p>	<p>BCAP considers that there are strong public health grounds to introduce an additional rule that all PCAS, whether they be commercial or otherwise, to state whether they refer women directly for termination. BCAP notes that the introduction of that requirement accords with the view of the Report of the House of Commons Science and Technology Committee on the Scientific Developments Relating to the Abortion Act 1967 recommended which states that “to ensure that no patients are misled, we ... recommend that the Government consider ways of ensuring that all those claiming to offer pregnancy counselling services ... indicate clearly in their advertising that they do not support referral for abortion.” BCAP does not consider it proportionate to require all PCAS providers to indicate whether or not they offer additional counselling or services for women who decide to proceed with their pregnancy.</p> <p>BCAP does not regulate PCAS but understands that approved Pregnancy Advice Bureaux (PABx) must abide by the Required Standard Operating Principles which are that women must:</p> <ul style="list-style-type: none"> <li>• have a pregnancy test as appropriate;</li> <li>• be fully informed about the choices available– including alternatives to a termination;</li> <li>• have the opportunity to receive information on pregnancy matters;</li> <li>• receive impartial advice on the termination options that are available to her;</li> <li>• be given advice on contraceptive needs.</li> </ul> <p>The Code of Practice by which PABx must abide by sets out the level of service that approved places and registered bureaux in the private sector can expect from the Department of Health including:</p> <ul style="list-style-type: none"> <li>• impartial and fair treatment of applications</li> <li>• prompt response to enquiries</li> <li>• clear, concise and unambiguous information and advice</li> <li>• responsibility to uphold the Secretary of State’s principles</li> <li>• independent review of complaints about the treatment of applications</li> <li>• value for taxpayers’ money in the application of regulations</li> </ul>
22		<p>Vulnerable women and men will be presented with a biased option, with inadequate information about potential risks (physical and psychological).</p>	<p>BCAP does not consider it proportionate to require all PCAS providers to detail the potential implications of having a termination in an advertisement, particularly when it is only one of the services they may provide or refer for and one which the woman may not choose. Furthermore, BCAP is of the view that if a woman chooses to have a termination,</p>

			the implications of that procedure are best discussed with the PCAS provider rather than communicated in an advertisement.
23		<p>As an alternative to the fourth proposal, I suggest that all advertising for abortions should advertise</p> <ul style="list-style-type: none"> <li>▪ the average amount of time that an independent counsellor spends with each abortion patient before the decision to have an abortion is made</li> <li>▪ the counselling's taking place at least quarter of a mile from the clinic and in separate premises</li> <li>▪ the proposed charge made by the agency to carry out an abortion and the fee to the abortionist</li> <li>▪ the number of abortions done by that agency each year (to draw attention to the mechanical nature of the process)</li> <li>▪ the annual turnover of that agency</li> <li>▪ an independent and genuinely impartial agency for post-abortion counselling (to be paid for by the abortion clinic)</li> </ul>	BCAP's proposal relates to the advertising of PCAS, not abortion.
24		<p>The scope for a conflict of interest is clear. By analogy, I understand that the Financial Services Industry recognised this type of conflict of interest/threat to the public/consumer in its Retail Distribution Review (with, it seems, a planned move away from commission-based charging by advisers so that they are not so closely 'tied' to particular products or otherwise to make things much more transparent to the consumer if they are - e.g. so that consumers can make an informed choice and so they can make, I would suggest, a qualitative assessment of the information that they are getting and not just a quantitative one). I do not think the consultation proposal recognises that aspect in a proper or fair way with regard to those who are likely to have vested interests.</p>	<p>BCAP does not regulate PCAS providers but understands that Pregnancy Advice Bureaux (PABx) must abide by the Required Standard Operating Principles which are that women must:</p> <ul style="list-style-type: none"> <li>• have a pregnancy test as appropriate;</li> <li>• be fully informed about the choices available— including alternatives to a termination;</li> <li>• have the opportunity to receive information on pregnancy matters;</li> <li>• receive impartial advice on the termination options that are available to her;</li> <li>• be given advice on contraceptive needs.</li> </ul> <p>BCAP does not consider it proportionate or necessary to guard against potential consumer harm to require PCAS to disclose their financial interests in their advertising.</p>
25		<p>There is no definition of 'suitable credentials.'</p> <p>Some respondents were particularly concerned that pro-life PCAS might not meet the test of having 'suitable credentials' and felt the proposal favoured providers that might refer women for termination, for whom they believed had more financial resources to obtain 'suitable credentials'.</p> <p>I am opposed to the introduction of a new rule applying to TV and radio requiring medical and health advice services to provide suitable credentials for being able to advertise.</p> <p>Under the proposed new rule, to what regulatory commission or body are "medical and health advice services" supposed to apply to, when seeking permission to advertise on TV or radio? At the moment, responsibility for setting and evaluating "suitable credentials" resides with the NHS and local health authorities. These existing bodies, detached from business concerns, can be trusted to function impartially in assessing family planning services.</p> <p>Does the BCAP propose to institute a new regulatory body with discretionary powers beyond those already exercised by the NHS and local medical authorities? If so, who's going to keep an eye on</p>	<p>Rule 11.9 states:</p> <ul style="list-style-type: none"> <li>• Services including Clinics, Establishments and the like Offering Advice on, or Treatment in, Medical, Personal or other Health Matters – Advertisements are acceptable only if the advertiser can provide suitable credentials, for example, evidence of: relevant professional expertise or qualifications; systems for regular review of their skills and competencies and suitable professional indemnity insurance covering all services provided; accreditation by a professional or regulatory body that has systems for dealing with complaints and taking disciplinary action and has registration based on minimum standards for training and qualifications.</li> </ul> <p>It is not BCAP's intention to restrict particular providers from advertising PCAS, but to ensure audiences are offered adequate protection from services offering personal advice they must demonstrate that they have 'suitable credentials' as detailed in rule 11.9. BCAP accepts that what may be deemed to be 'suitable' will depend on the service being advertised. For example, for PCAS only offering counselling it may be sufficient for the provider to demonstrate they hold the relevant qualifications or expertise and are accredited by a professional regulatory body.</p>

		<p>this new body to monitor its ethical standards and evaluate its performance?</p> <p>The proposed new rule would merely complicate an already overburdened system, without accomplishing anything that isn't already being handled effectively by the NHS and local health services</p>	
<b>26</b>		<p>Removing the radio rule permitting advertising only by those Family Planning Centres (FPCs) with local authority or NHS approval.</p> <p>It is appalling that any agency whatsoever should be able to advertise such services without any control. The procedures these agencies provide have very serious medical and psychological implications and no publicity should be afforded to any organisation that can find the money and is answerable to nobody.</p>	<p>BCAP considers that the existing rule for radio advertisements, which requires family planning centres to be approved by a Local Health Authority, the Central Office of Information, or another appropriate NHS body, at present prevents faith based organisation such as The Good Counsel Network and the Brixton Advice Centre from advertising. BCAP agrees with the respondent that listeners require adequate protection from services which offer personal advice so proposes to require PCAS that advertise on radio to demonstrate they have 'suitable credentials' under Code rule 11.9.</p>
<b>27</b>		<p>I recognise that BCAP is already permitting abortion 'providers' to advertise on television, if they are charities and not commercial bodies. However, to expand this business further to incorporate large commercial bodies, would inevitably be directly influencing the children/girls/ladies in vulnerable situations of 'unplanned' pregnancies, towards the decision of abortion:</p> <p>Therefore, in practice, these proposals would only enable large commercial 'providers' of abortion to advertise more widely and therefore increase the likelihood of further abortions. Is this really something that BCAP wishes to endorse and thus be accountable for?</p>	<p>BCAP's proposal relates to PCAS, not abortion.</p> <p>It is not BCAP's role to promote one product or service over another and it does not consider that allowing a range of services to be advertised will significantly alter behaviour in the manner suggested.</p> <p>BCAP considers that the proposed rule strikes a balance between the legitimate right of a range of PCAS providers to advertise and the need for women to have sufficient information about whether those providers can refer them for a termination.</p>
<b>28</b>		<p>It would be very dangerous to relegate post-conception advice to a merely commercial transaction. Women seeking help with a difficult pregnancy are very vulnerable and are often under pressure to terminate a pregnancy. What they need is to know that there is real help available from many agencies and that they don't need to rush into having an abortion. They also need time to reflect on the nature of the foetus they are carrying and the consequences for it and themselves of any decision they make.</p> <p>It is also a time of great psychological turmoil and by allowing commercial advertising, it trivialises what can be a very traumatic procedure and seems to put it on an equal basis with any commodity that is offered for sale.</p>	<p>BCAP's proposal related to PCAS, not advertisements for abortion.</p> <p>BCAP does not consider that its proposal to expand the types of PCAS that can advertise on television and radio will trivialise the implications of termination. The general provisions of the Code will apply (i.e. that advertisements must not mislead, harm or be likely to offend audiences.)</p>

29		<p>I am opposed to the removal of the rule preventing commercial services offering personal advice from advertising.</p> <p>This is a rule worth preserving in any event. Quite apart from the abortion services issue, commercial services should never be allowed to advertise that they offer personal advice to private individuals. It is already far too easy for advertising bodies to represent themselves as acting in the interest of the individual, whilst downplaying the fact that the company's primary motivation is the accumulation of profit.</p>	<p>A number of PCAS can currently offer personal advice to individuals. BCAP considers that other PCAS providers who offer legally available services should similarly be allowed to advertise their services subject to the rules of the BCAP Code. The BCAP Code requires advertisers to ensure that their advertisements are unlikely to mislead consumers.</p>
31		<p>Commercial operations advertise in order to make money. The only way advertisements by such entities will not be misleading is if it is clearly stated at the commencement of the advert that the entity makes a profit from all such services (not in small print or equivalent), which include abortion services (it is important not to mislead by using a euphemism such as "unplanned pregnancy" or similar). Since a commercial service is not an unbiased adviser, it is important the benefit for the service in encouraging women to use its services is made clear.</p>	<p>BCAP's proposal relates to PCAS, not abortion.</p> <p>See BCAP's response to point 30.</p>
32		<p>The BCAP Consultation Document states:</p> <p>Any advertising by definition seeks to persuade people to do something, in this case use a particular service. BCAP acknowledges that PCAS "offer a range of post-conception services to women", including advice about terminations. Advertising therefore seeks to persuade people to obtain advice on terminations. BCAP also acknowledges that "a wider range of PCAS would be able to advertise as a result of the proposals, the change could result in a higher overall volume of such advertising appearing on television and radio, which may in turn impact on the way audiences respond to such advertising."</p> <p>It is irresponsible to continue with this change in the advertising rules without appropriate safeguards on the form of such advertising and consideration of the impact on the vulnerable.</p>	<p>BCAP has carefully considered the impacts of relaxing its rules on the advertising of PCAS. It considers that rules 11.9 and proposed rule 11x ensure that PCAS hold suitable credentials and provide women with information about whether or not that organisation can refer them for a termination which protects vulnerable consumers.</p>
33		<p>My reasons for this opposition is that commercial PCAS have a vested interest in recommending termination of a pregnancy to prospective clients. They charge from around £500 to £2,000 for terminations (cheaper for early term abortions, most expensive for late term abortions) regardless of whether the woman pays privately or comes via the NHS. They earn nothing for recommending a pregnant girl or woman to consider all the options, are they sure that they would not be better having the child whether offering it for adoption or keeping it. They cannot give dispassionate advice for purely commercial purposes, which is why some senior parliamentarians are seeking to ensure that pregnant women considering a termination have to have pro-life counseling as well as termination advice.</p>	<p>BCAP does not regulate PCAS providers but understands that Pregnancy Advice Bureaux (PABx) must abide by the Required Standard Operating Principles which are that women must:</p> <ul style="list-style-type: none"> <li>• have a pregnancy test as appropriate;</li> <li>• be fully informed about the choices available— including alternatives to a termination;</li> <li>• have the opportunity to receive information on pregnancy matters;</li> <li>• receive impartial advice on the termination options that are available to her;</li> <li>• be given advice on contraceptive needs.</li> </ul>

34		The consultation process is flawed because BCAP has not declared the interests of its members in the outcome of the proposals, compromising the underlying premise of the consultation that BCAP is a neutral party.	<p>In 2004, Ofcom contracted out the regulation of broadcast advertising to BCAP and the ASA. BCAP has a duty to write and review the UK Code of Broadcast Advertising. BCAP's aim is to ensure the advertising Code prevents advertisements from being misleading, causing harm or offence, and breaching the boundaries of taste and decency. Its members include representatives from the advertising and marketing industry with an interest in broadcast advertising: advertisers, agencies and television and radio broadcasters. BCAP members work together to ensure the integrity of broadcast advertising. The co-regulatory regime has all-party support and enjoys widespread acceptance of its role in protecting the consumer. BCAP is aided in its work by the Advertising Advisory Committee, a consumer panel created to add a consumer perspective to BCAP's work. The system is structured so that it does not operate in an unfair or anti-competitive manner.</p> <p>BCAP discharges its functions in an open and transparent manner and a full list of BCAP and AAC members can be found <a href="#">here</a>.</p>
35		Women who are considering their options need time and space to make an informed decision of their own, but will often be under pressure from family or partner to abort. There is plenty of information available, but television advertising has the effect of normalising abortion, and, when produced by commercial interests will undoubtedly present abortion as a very normal and safe procedure with no mention of the distress it can cause to mothers, and certainly no mention of its effect on the baby.	<p>BCAP's proposal relates to PCAS, not abortion.</p> <p>It is not BCAP's role to promote one service over another. BCAP's intention is to ensure that advertisements for PCAS do not mislead the audience about the service they offer. BCAP considers that by removing the rule preventing commercial PCAS from advertising, audiences will be able to learn about services that are legally available to them in a medium that may be of more appeal to them. BCAP does not consider that an ability to advertise in another medium justifies a prohibition on advertising in another.</p>
36		There is no-one in this country who does not know that abortions are available. Everyone in this country has access to a GP, and the GP (plus one other GP) needs to be involved. It is inconceivable that after consultation with two doctors, a woman who seeks an abortion will find herself needing a TV advert to find an abortion provider. Her doctors will have the wherewithal to advise her.	<p>It is not BCAP's role to promote one service over another. BCAP's intention is to ensure that advertisements for PCAS do not mislead the audience about the service they offer. BCAP considers that by removing the rule preventing commercial PCAS from advertising, audiences will be able to learn about services that are legally available to them in a medium that may be of more appeal to them. BCAP does not consider that an ability to advertise in another medium justifies a prohibition on advertising in another.</p>

## Responses to BCAP's original proposal

This is a summary of significant points made for and against BCAP's original proposal on PCAS. BCAP and Ofcom will take these comments into account when they determine if and in what form the proposed rule is to be introduced in the UK Code of Broadcast Advertising.

### Summary of responses in favour of the previous version of BCAP's proposal:

- Advertisements for post-conception advice services will provide valuable information to those who may not be able to access it by other means.
- Advertisements for post-conception advice services will provide valuable information to vulnerable women.
- Post-conception advice services & abortion are legally available and should be entitled to advertise.
- Women need relevant information at an early stage.

- Welcome the commitment to follow through on recommendations of the Report of the House of Commons Science and Technology Committee on the Scientific Developments Relating to the Abortion Act 1967.
- 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.
- The proposals are in the interests of the safety, health and well-being of all women and children in our society.
- 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. Women have been able to access safe and legal abortions from the NHS or privately for over 40 years.
- It is important to take a responsible attitude towards teenage sexual behaviour in light of teen pregnancy and STD rates.
- Women are entitled to know the type of organisation from whom they are seeking help.
- Permitting such advertisements on television and radio could provide valuable unbiased information to people of all ages living in communities where contraception and termination (and sexual health in general) are not discussed for cultural or religious reasons. Young people may not be getting the information they need from their schools and people of all ages may be getting it weighted with (religious) moral prejudice from their families and communities.
- It is critical that advertisements for post-conception advice services should be explicit about whether or not they refer women for abortion. This is particularly the case with teenagers who sometimes present later into pregnancy than women of other age groups, and sometimes lack the skills and knowledge to discern the difference between post-abortion services and can find themselves facing later and more complicated abortion procedures due to unnecessary delays caused by this confusion.
- There is no evidence to suggest family planning and abortion information and counselling cause serious offence to viewers or listeners in this country. We believe that a small, vocal minority of those who are opposed to both contraception and abortion make these claims to give validity to their wish to ban both, but never offer evidence of such offence among the public. It is possible to be personally opposed to abortion but also recognise that it will happen in spite of such views and support the right of others to safe services.

#### **Summary of responses against BCAP's proposal:**

- BCAP's proposal will encourage promiscuity among young people and divorces sex from mature relationships. Any reduction in teenage pregnancy will only come about when society promotes the message of abstinence and self-control.
- This proposal is not the right way to improve sexual health.
- Such subjects should be dealt with at school and by parents.
- BCAP's proposal will promote abortion as a means of birth control.
- Advertisements for such services will cause serious offence to disabled people.
- Advertisements for such services will cause distress to women who are incapable of having children.
- There should not be a competitive market in the provision of abortion services.

- There is no evidence provided for the claim that pregnancy advisory services delay women accessing abortion. Pregnancy advisory services always refer women straight to their GP or a Family Planning Centre if a woman wishes to have an abortion.
- Those organisations wishing to promote healthy alternatives to abortion will not have a level playing field as their funding will be unable to match the money spent by the organisations promoting abortion advice and condoms.
- This is too serious a moral issue to be advertised in this commercial setting.
- The law in the UK does not permit abortion on demand, and there is no “right” to have an abortion. Abortion is illegal in the United Kingdom unless two doctors agree that the woman satisfies specific exemption criteria as laid out in the 1967 Abortion Act (as amended). To allow broadcast advertising of post-conception pregnancy advisory services which refer women for abortion would be to send a profoundly misleading message about the basis on which abortion is legally available.
- BCAP's proposals are in conflict with the Audio Visual Media Services principle that audiovisual commercial communications shall not cause moral detriment to minors or encourage behaviour that is prejudicial to health or safety.
- BCAP's proposal is in conflict with the Code's own provisions on political and controversial matters.
- The BCAP TV Code prohibits medical treatments and medicinal products available on prescription.
- To insist on a mandatory warning in advertisements for non-referring organisations is in effect benefitting abortion-referring organisations.
- The context, medium and impact of TV are highly different to that of radio.
- Pre-conception and post-conception services should be accessed by medical referral only.
- Abortion advertising would cause serious and widespread offence to UK citizens holding sincerely held religious beliefs on abortion.
- Abortion providers mislead women into thinking that abortion is a quick-fix solution to a problem pregnancy with no harmful consequences.
- There are enough avenues open for women to seek out an abortion provider. Targeting them through the television when they are vulnerable is not the answer to our high abortion rate.
- Abortion is not legal in Northern Ireland and under its criminal law; it is illegal to advertise abortion providers in booklets, yellow pages etc. Television would also come under this aspect of the law.
- The advertising of such services will further trivialize the matter given that no serious treatment of the issues involved can be dealt with in a short advertisement. Advertising, rather, is typically aimed at increasing the market for services and therefore very likely to lead to a worsening of the situation of high abortion levels.
- 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. There is a risk that requiring advertisements to state that these services do not refer for abortion could give the false impression that they are opposed to abortion or offer a more restricted range of assistance to women.
- Post-conception advice services should not be advertised on television if those advertisements are going to contain mention of ‘abortion’.
- In line with BCAP's proposal, advertisements for those services which can refer women for a termination should be made to include a similar statement if they do not offer counselling to women who choose to keep their babies.

- Rather than require providers of post-conception pregnancy advice services to explicitly state if they do not refer women directly for abortion, there is a more pressing need for abortion providers to state the risk of post-abortion medical complications and psychological trauma when advertising their services. This would parallel the situation in the financial sector, where, such advertisements must include a warning that alerts the audience to the risks involved.
- Any woman considering abortion will be sufficiently motivated and will easily be able to find information about abortion providers from the wide range of sources presently available – internet, print advertisements, women's magazines, yellow pages, radio etc.
- All post-conception advisory services should be required to make a statement about their referral practices. i.e. whether they will/will not refer women for a termination.