

BCAP Consultation:

Post-conception Advice Services

Response by:

Christian Concern

The Christian Legal Centre

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Concern

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Consultation:

Broadcast Committee of Advertising Practice (“BCAP”): Post-conception advice services

Closing date: 8 August 2011

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About Us

Christian Concern is a policy and legal resource centre that identifies changes in policy and law that may affect the Judeo-Christian heritage of this nation. The team of lawyers and advisers at Christian Concern conduct research into, and campaign on, legislation and policy changes that may affect Christian freedoms or the moral values of the UK. Christian Concern reaches a mailing list of over 34,000 supporters. <http://www.christianconcern.com>

Christian Concern is linked to a sister and separate organisation, the Christian Legal Centre, which takes up cases affecting Christian freedoms. <http://www.christianlegalcentre.com>

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Broadcast Committee of Advertising Practice: Post-conception advice services

BCAP Consultation Question:

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?

Executive Summary

We do not believe that the BCAP proposals either protect vulnerable people or ensure that women are provided with the appropriate information to make an informed choice regarding their pregnancy. Therefore we do not agree that the current restrictions on advertisements for post-conception advice services should be relaxed.

In particular, we note that:

- The provision of abortion services cannot be compared with or equated in any respect to other commercial services, since abortion involves the termination of a human life. It is a risky and serious medical procedure which is not directly available to the public but which requires the signatures of two doctors. Because of this, and because the practice of abortion remains highly controversial in society, advertising is not the appropriate medium for this procedure.
- The proposals would allow those with a financial incentive to advertise abortion procedures directly through television to vulnerable women, some of whom may be under pressure from others to have an abortion or may be in a distressed or emotional state. This is unacceptable as women should be protected from the adverse mental and physical health risks of abortion. Without a requirement on advertisers to provide information on the health risks of abortion, any abortion advertisements are likely to be misleading or harmful under s319 of the Communications Act 2003.
- The proposals create an uneven playing field since only major abortion providers possess the financial resources to widely advertise on television. Given how politically sensitive the issue of abortion is, this appears not to be equitable, and could be a breach of both section 321 of the Communications Act 2003 and section 7 of the UK Code of Broadcast Advertising (BCAP Code). These provisions specifically require BCAP to refrain from sanctioning advertisements of a political nature which could potentially influence public opinion on a matter of public controversy.
- 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 serious advice or assistance on any alternatives other than abortion to women with unwanted pregnancies.

- 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.
- 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”.

Misleading and harmful advertising

Under section 319 of the Communications Act 2003, advertisements must not harm or mislead consumers by concealing “material information”,¹ which is “information that consumers need in context to make informed decisions about whether or how to buy a product or service”.²

Abortion procedures place women at an increased risk of developing physical and emotional disorders. Therefore, the Royal College of Psychiatrists advised in 2008 that women should be warned about the mental health risks before proceeding³, and recognised that “good practice in relation to abortion will include informed consent. Consent cannot be informed without the provision of adequate and appropriate information regarding the possible risks and benefits to physical and mental health”.⁴

It is vital that women are provided with accurate, comprehensive and impartial advice on the emotional and physical impact of abortion, and to recognise instances where these risks may be heightened (e.g. due to the existence of coercion or pre-abortion medical disorders). Some of those risks are mentioned below in the Appendix.

On this basis, if advertisements for abortion are allowed, they would have to provide information on the health risks in order not to breach section 319. As this won’t happen, advertisements for abortion must be prohibited to protect vulnerable women, and the current law permitting not-for-profit abortion providers to advertise their services on TV and radio should also be reversed.

Financial Imbalance

The abortion business is a multi-million pound a year industry and abortion providers have a significant financial interest in promoting and encouraging abortion.

Abortion providers will have every commercial incentive to minimise the seriousness of the procedure in an advertisement and encourage women to have abortions. Yet the provision of abortion cannot be compared with or equated in any respect to other commercial services, since abortion involves the termination of a human life. It is a risky and serious medical procedure which is not directly available to the public but which requires the signatures of two doctors. Therefore advertising is not the appropriate medium for this procedure.

¹ See also: section 3 and 4 of the BCAP Code

² Section 319 of the Communications Act 2003 and section 3 of the BCAP Code

³ RCOP, Position Statement on Women’s Mental Health in Relation to Induced Abortion, 14 March 2008

⁴ BBC Ethics Guide: *Abortion and the Safety of Women* <http://www.bbc.co.uk/ethics/abortion/mother/safety.shtml>

The advertisements are likely to be seen by a wide range of people including vulnerable women. Some women will already be under pressure to abort from a boyfriend or family member. It would be impossible to assess the mental health needs of the audience viewing the advertisement. Advertisements would risk presenting abortion as an easy answer to an unwanted pregnancy without a balance of information. In addition, advertising the availability of abortion procedures would itself trivialise abortion and reduce the ending of an un-born child's life to the level of a commercial service.

Finally, the proposals from BCAP create an uneven playing field since only major abortion providers possess the financial resources to widely advertise. Thus, pro-life pregnancy advice centres, adoption centres and other organisations supporting life are unfairly excluded from this forum.

Rule 11.x - Delays in accessing abortion services

Under the new proposals, advertisements for post-conception services must *"make it clear in the advertisement if the service does not refer women directly for a termination"*.⁵ The consultation document states that this requirement:

".....is based on the principle that a pregnant woman should be afforded information at the earliest stage on whether a service does not include referral for termination of pregnancy, to minimize the risk of complications should she decide to seek a termination".⁶

We would argue that, on the same basis, those advertising abortion services should be compelled to make it clear in their advertisements that they do not provide advice on options other than abortion to pregnant women; that they do not, for instance, assist women, in a very real way, to continue with their pregnancies, meeting their emotional and physical needs (as many pro- life organisations do); and that they do not help women give up their babies for adoption.

In addition, there is no need for rule 11.x as information about abortion providers is readily available from a number of well known sources, including the NHS, the internet and the yellow pages.

Rule 11.x appears to be biased in favour of abortion providers and implies that vulnerable women are more in danger if they go to a pro-life pregnancy advice service than an abortion clinic; an assumption that cannot be substantiated.

For these reasons, we contend that pregnancy advice services should not be required to make statements to the effect that they do not refer women for abortions.

Requirement for medical credentials

The proposed need for medical credentials in order to advertise abortion services discriminates against pro-life organisations as only major abortion clinics are likely to be able to meet this criterion. The proposed requirement will prevent many religious organisations, charities and non-medical organisations from advertising their post-conception services on television. Therefore this requirement appears to be in favour of abortion providers and is wholly inequitable.

⁵ BCAP Consultation: Post-conception advice services (27/06/2011), 11

⁶ BCAP Consultation: Post-conception advice services (27/06/2011), 11

Advertisement of criminal activities

The advertisement of criminal activities is specifically prohibited by the law.

We note that abortion is a criminal offence under the Offences Against the Persons Act 1861. Whilst the Abortion Act 1967 provides limited exceptions to this rule in certain circumstances, abortion continues to be illegal under English law outside of these exceptions. Thus, the House of Commons website notes that the “*Abortion Act 1967 did not make abortion legal but conferred upon doctors a defence against illegality*”.⁷

Advertisements for “prescription only” medical services

Abortion advertisements are highly 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. We believe that this is applicable to abortion because, although an abortion is not arranged directly by prescription, it is also, like prescription medicines, unavailable to the public on demand. Women seeking an abortion must obtain the signature of two doctors to certify that the legal requirements under the Abortion Act 1967 have been met.

Political Advertisements

Abortion is a highly politicised and controversial procedure. We believe that advertisements for abortion fall within the longstanding ban on political advertisements under both section 321 of the Communications Act 2003 and section 7 of the BCAP Code. These provisions specifically require BCAP to refrain from sanctioning advertisements of a political nature, which could potentially influence public opinion on a matter of public controversy.

BCAP claims that it “does not assume a moral standpoint on the termination of pregnancies”,⁸ yet allowing commercial abortion providers to advertise their services, whilst restricting pro-life pregnancy services through means such as rule 11.x, undermines this claim.

Offensive Advertising

Under section 4.2 of the BCAP Code, advertisements must not “cause serious or widespread offence against generally accepted moral, social or cultural standards”.

There is no question that advertising abortion services will cause widespread and serious offence. The practice of abortion is considered deeply wrong by a wide range of people and is condemned by the teachings of the three largest religions in the UK – Christianity, Judaism and Islam. Such advertisements will cause serious offence both to those with sincerely held religious views on abortion as well as those of no religion who believe that abortion should not be encouraged or advertised on television.

In particular, advertisements for abortion are likely to cause serious upset to women who have been emotionally or physically damaged by abortion. They will not want to see abortion presented as just another commercial service.

⁷ Select Committee on Science and Technology Twelfth Report:
<http://www.publications.parliament.uk/pa/cm200607/cmselect/cmsctech/1045/104507.htm>

⁸ BCAP Consultation: Post-conception advice services, 27/06/2011, pg.11

Teenage pregnancy rates

Over the past decade, the government has struggled to reduce Britain's teenage pregnancy rate, which is currently the highest in Western Europe.⁹ Yet sanctioning abortion advertisements could hamper these efforts as they are likely to lead to teenagers viewing abortion as another means of contraception.

In recent years, there have been frequent reports of teenage girls conceiving as a result of relying on abortion as a safety net "just in case" an unplanned pregnancy arises from a careless use of contraception. Statistics published by the Department of Health in 2008 revealed that young girls are repeatedly using abortion as a means of birth control and having up to four abortions by the age of 18.¹⁰ Yet teenagers, and women who have had multiple abortions, are at a greater risk of developing abortion-related medical complications.¹¹

Advertisements for abortion are likely to result in more women, and more teenagers, choosing abortion over other alternatives such as adoption. With almost 200,000 abortions taking place in England and Wales each year, the urgent need to reduce the number of annual abortions has now been widely accepted by government officials, with Health Minister, Anne Milton, describing a reduction in abortion rates as being the government's "absolute priority".¹²

In light of this, we believe that it is highly irresponsible of BCAP to sanction advertisements which may portray abortion as being a quick and easy way of dispensing of an unwanted pregnancy.

⁹ The Telegraph: "*Britain worst for teenage pregnancies*", 18th October 2007:

<http://www.telegraph.co.uk/news/uknews/1566575/Britain-worst-for-teenage-pregnancy.html>

¹⁰ Article by the Daily Mail entitled, "Girls using abortion as birth control and having up to four terminations by the age of 18", by Beezy Marsh, 27th December 2009:

<http://www.dailymail.co.uk/health/article-1238612/Girls-using-abortion-birth-control.html>

¹¹ See: http://www.abortionfacts.com/reardon/effect_of_abortion.asp and "Teen Abortion Risks Factsheet": http://www.abortionfacts.com/reardon/effect_of_abortion.asp

¹² House of Commons debate: "Termination of Pregnancy", Hansard, 2nd November 2010 Column 896: <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101102/debtext/101102-0004.htm#1011036000002>

Appendix

Risks of Abortion Procedure

Abortion carries serious consequences for women.

Research shows that abortion tends to cause the following psychiatric problems: increased psychiatric hospitalisation, increased outpatient attendance, increased substance abuse during subsequent pregnancies carried to term, increased death rates from injury, suicide and homicide, and higher rates of major depression, suicidal thoughts and illicit drug dependence.¹³

The Royal College of Psychiatrists released a statement in March 2008 admitting that abortion may damage a woman's mental health and¹⁴ recommending that women should not be allowed to have an abortion until they are counselled on the risks. This overturned the consensus that stood for decades that continuing with an unwanted pregnancy was more harmful than an abortion.

There has been more recent research published from New Zealand by Fergusson and others which has continued to shed light on the effect of abortion on women. In a 2009 paper, Fergusson stated: 'The mental health risks associated with abortion may be larger, and certainly are not smaller, than the mental health risks associated with unwanted pregnancies that come to term.'¹⁵ His research found that women reporting distress at having an abortion were 40-80% more likely to experience mental ill health than those not having an abortion.¹⁶

Research has also showed that there is a significant increase in premature births amongst women who have had an abortion.¹⁷ The procedure of abortion itself carries significant risk and is an invasive medical procedure.

Abortion can also have traumatic psychosocial consequences for women.¹⁸

One of the country's leading groups involved in post-abortion counselling lists¹⁹ the following common complaints:

- Feeling the need to 'replace' the baby
- A feeling of distance from or, conversely, over-protectiveness of existing children
- Inability to maintain normal routine
- Depressed feelings stronger than 'a little sadness'
- Sleeping problems
- Flashbacks

¹³ <http://www.cmf.org.uk/publications/content.asp?context=article&id=1985>

¹⁴ See the *Times* article on the Royal College of Psychiatrists' statement on abortion and mental health at: http://www.timesonline.co.uk/tol/life_and_style/health/article3559486.ece and the article in the *British Journal of Obstetrics and Gynaecology* at: http://www.bjog.org/details/news/344961/Audio_podcast_launched_Termination_of_pregnancy_and_the_risk_of_subsequent_prete.html

¹⁵ Fergusson DM et al. Abortion and mental health (correspondence). *British Journal of Psychiatry* 2009;195:83-84

¹⁶ Fergusson DM et al. Reactions to abortion and subsequent mental health. *British Journal of Psychiatry* 2009;195:420-426

¹⁷ Rooney, B and Calhoun, BC, *Journal of American Physicians and Surgeons*, 8 (2), 2003, pages 46 – 49.

¹⁸ See CMF file 35 (2007), "Consequences of Abortion", and the Royal College of Psychiatrists' Position Statement on Women's Mental Health in Relation to Induced Abortion of 14 March 2008.

¹⁹ www.careconfidential.com/IHadAnAbortion.aspx

- Tearfulness
- Relationship tensions or breakdown resulting from the abortion

Another source²⁰ lists symptoms specific to post-abortion reactions as:

- Anniversary syndrome – an increase of symptoms around anniversary dates of the conception, abortion or due date
- Anxiety over infertility
- Avoidance behaviours – avoiding pregnant friends, babies, vaginal examinations
- Eating disorders
- Inability to bond with children
- Preoccupation with becoming pregnant again – atonement babies
- Psychosexual disorders – inability to engage in sexual activity or sexually acting out
- Sudden, uncontrollable crying

A major longitudinal survey published in 2008 by *The British Journal of Psychiatry* found, after adjustments for confounding variables, that women who have abortions are 30% more likely to experience suicidal thoughts, substance abuse, anxiety disorders and clinical depression, compared to those with other pregnancy outcomes.²¹ Research conducted by Finland's National Research and Development Centre for Welfare found that suicide rates in abortive women was three times higher than for the general population, and six times higher than for women carrying their pregnancy to term.²² The 2006 suicide of a young British woman, Emma Beck, was found to be directly linked to her inability to cope with regrets over the abortion of her twins after being coerced into the procedure by her partner.

Medical complications following an abortion vary from minor problems to more serious conditions such as pre-term deliveries in subsequent pregnancies, reduced fertility, cancer and even death. Although, the incidents of medical complications in post-abortive women are often under-reported, the best available evidence demonstrates that post-abortive women are 2.3% more likely to suffer from cervical cancer compared to women with no history of abortion²³, and three times more likely to develop breast cancer in later life.²⁴ Abortion also places women at a risk, albeit small, of developing serious life-threatening complications, such as haemorrhage, endometriosis and pelvic inflammatory disease (PID), which can all be fatal if left untreated. The latter is also a major cause of infertility in post-abortive women.²⁵

²⁰ Fraed L, Salazar P. A season to heal - help and hope for those working through post-abortion stress. Cumberland House, 1993

²¹ DM Fergusson et.al., "Abortion and mental health disorders: evidence from a 30-year longitudinal study", *The British Journal of Psychiatry*, 193:444-451, 2008

²² M. Gissler et.al, "Injury deaths, suicides and homicides associated with pregnancy, Finland 1987-2000", *European Journal of Public Health*, 15(5): 459-63, 2005

²³ See: http://www.abortionfacts.com/reardon/effect_of_abortion.asp

²⁴ The Daily Mail: Abortion "triples breast cancer risk: Fourth study finds terminations linked to disease", Simon Caldwell, 24th June 2010

²⁵ See: See: http://www.abortionfacts.com/reardon/effect_of_abortion.asp