

AA RESPONSE TO THE TELEVISION WITHOUT FRONTIERS CONSULTATION

The Advertising Association (AA) is a federation of 25 trade associations and professional bodies representing the advertising and promotional marketing industry, including advertisers, agencies, the media and support services in the UK. It is the only body that speaks for all sides of an industry worth over £16.7 billion in 2002.

Further information about the AA, its membership and remit is available on our website at: <http://www.adassoc.org.uk>

The Advertising Association welcomes the opportunity to contribute its opinion to the Issues Papers produced by DG Information Society, which raised some interesting points for discussion.

The broadcast industry in Europe is a good example of the dynamic, knowledge-based industry, which is essential to the growth and development of the European economy. It provides high quality work for European citizens and is at the cutting edge of innovation and technological development.

In the opinion of the Advertising Association, the result of this second review of the Television Without Frontiers Directive should be a 'light touch' legislation which fully respects the subsidiarity principle and encourages the use of effective self-regulation by Member States, allowing room to grow without restricting freedom to innovate.

With this in mind the Advertising Association will use this response to focus on two main areas raised in the Issue Papers – the scope of the directive and the rules relating to advertising.

Scope

Issue Paper 1 suggests a possible extension of the scope of the Directive to include broadcast over new media services. The Advertising Association agrees that a full debate in this area is appropriate in the light of rapid technological changes but asks the Commission to consider the following questions in its deliberations on the extension of scope.

- Will the extension of scope cause increased costs for business without bringing any palpable benefits?
- What will the interaction between the revised Television Without Frontiers Directive and the E-commerce Directive be?
- What is the justification for the inclusion of radio broadcast in the scope of the Directive?
- Has the Commission considered the effect any change to the scope will have on the work of advertising self-regulatory bodies (for further explanation see the position paper of the UK Advertising Standards Authority)?
- Are the definitions of linear and non-linear broadcast realistic in light of the rapidly changing nature of the industry?

- Has the Commission modelled what the compliance rate with proposed rules for broadcasts coming from third countries will be?
- Has the Commission considered the potentially damaging effect on the EU content industry if these compliance rates are low and production moves outside the EU?

It is the view of the Advertising Association that before any extension of scope is put forward a full Regulatory Impact Assessment (RIA) should be undertaken which investigates in detail the effect any proposed changes may have.

In this case extending the scope would make significant changes to the Directive. The EU would in effect be regulating a whole new area. According to Commission guidelines, an RIA should examine whether intervention is justified and that policy options do not go beyond what is necessary. The Advertising Association is confident that the Commission will ensure all the necessary quantitative research is undertaken before proposing such a radical change to the existing legislation. It is also confident that the Commission will continue to include all relevant stakeholders in the consultation process linked to any RIA undertaken.

The Advertising Association is aware of the fact that so thorough an RIA will be time consuming but we are of the opinion that it will be time well-spent if it results in a successful review of the Directive.

Country of Origin Principle

A strong Country of Origin Principle is at the heart of this Directive and has made an important contribution to the opening of the internal market for television.

The Advertising Association welcomes DG Information Society's commitment in its Issue Papers to the Country of Origin clause in the TVWF Directive. We urge the Commission to ensure that this principle remains a key component of the revised Directive and is not weakened in the course of the debate.

Advertising Rules

The Advertising Association welcomes DG Information Society's intention to modernise the rules relating to advertising in the TVWF Directive. Modernisation of these rules will benefit the viewer in many ways. For example, allowing advertising to be inserted in a natural programme break rather than according to formulaic rules will make the viewing experience a more positive one.

The suggested changes go a certain way towards creating a more flexible regime for advertisers. However, given the constantly evolving nature of advertising and broadcast technology, perhaps a more ambitious approach to these rules would be appropriate at this time. Furthermore, recent discussions at EU level on Better Regulation have identified the need to move lawmaking 'nearer to the people'. For this reason the Advertising Association

proposes that the revised Directive should be altered to provide a broad framework for advertising rules, setting general principles on which all Member States are agreed, such as rules relating to the protection of vulnerable groups or the advertisement of pharmaceutical products, but leaving the detail to individual Member States to decide. This framework would of course be backed up by a strong Country of Origin clause to ensure the continued smooth functioning of the Internal Market.

Self-Regulation

The Advertising Association welcomes the Commission's commitment to supporting self-regulation in advertising. The European Advertising Standards Alliance has been successful in facilitating schemes of self-regulation throughout Europe. Member States should certainly be encouraged to consider these schemes as an efficient and effective complement to legislation at national level.

Summary of Response to Issue Papers

The Advertising Association would like to make the following key points:

- It is essential before any move to extend the scope that a detailed RIA be undertaken. The effect such a change would have on all stakeholders must be clearly identified and investigated before any proposal for extension is put forward;
- The Country of Origin Principle is key to the success of the revised Directive and should receive the strongest possible support from the Commission;
- Advertising rules are laid out in too much detail at EU level presently. A broad framework for these rules at EU level is necessary but Member States should have more individual decision-making power at this level. A strong Country of Origin Principle within the Directive will ensure that there is no threat to the internal market;
- Take-up of self-regulation by Member States should be encouraged in the strongest possible terms.

The Advertising Association thanks DG Information Society for the opportunity to respond to the Issue Papers and looks forward to contributing further to the review of the TV Without Frontiers Directive.