



The Advertising Association

European Commission Green Paper Healthy Diets and Physical Activity

Consultation Response by the Advertising Association

The Advertising Association (AA) is a federation of 32 trade bodies and organisations representing the advertising and promotional marketing industries, including advertisers, agencies, the media and support services in the UK. It is the only body that speaks for all sides of an industry that was worth over £18.3 billion in 2004. Further information about the AA, its membership and remit, can be found at the following location: <http://www.adassoc.org.uk/>

The AA welcomes the invitation to contribute to this consultation and looks forward to the Commission's response to stakeholder views.

Since many questions in the consultation are best answered by specialist practitioners, the Advertising Association has elected to focus on those issues which it considers to be directly related to advertising issues.

The questions the AA will address in this paper are:

- Are voluntary codes (self-regulation) an adequate tool for limiting the advertising and marketing of energy dense and micronutrient poor foods? What would be the alternatives to be considered if self-regulation fails?
- How can effectiveness in self-regulation be defined, implemented and monitored? Which measures should be taken towards ensuring that the credulity and lacking media literacy of vulnerable consumers are not exploited by advertising, marketing and promotion activities?
- In which way can nutrient profiling scoring systems such as those developed recently in the UK contribute?

Are voluntary codes (self-regulation) an adequate tool for limiting the advertising and marketing of energy dense and micronutrient poor foods? What would be the alternatives to be considered if self-regulation fails?

How should codes be used?

The AA believes that industry self-regulation, within the framework of a legislative backstop is the best approach for consumers, business and government. Self-regulation provides a fast, efficient and flexible basis for policy-making. It can be modified to reflect society's needs more quickly than legislation. It is a cost-effective mechanism for consumers to report suspected breaches and can act to ensure behaviour deemed to be a breach of the code ceases.

The UK advertising and direct marketing industry operates the British code of advertising, sales promotion and direct marketing. This is done via a self-regulatory body, the Committee of Advertising Practice (CAP), which creates, revises and enforces the code. The codes are independently administered by the Advertising standards Authority (ASA). Adjudications on potential breaches are made by the ASA Council of 12 members, a majority of which must be

unconnected with the industry. The code has a proven track record of success and the ASA is recognised by the Office of Fair Trading as the 'established means' of implementing the UK's misleading Advertising Regulations. In the case of broadcast advertising the BCAP (television and radio) codes are now an integral part of the UK government's regulatory regime and operate in a similar way under the authority of the ASA.

More information on the ASA, CAP and BCAP system can be found at the link www.asa.org.uk.

The role of codes should be to ensure that consumers make purchase choices based on clear information which is not misleading. The AA is confident that codes already in place achieve this goal. These codes support a significant body of consumer law at EU and national level. Community law including the Unfair Commercial Practices Directive and Television Without Frontiers Directive.

The Role of Codes in Limiting Advertising of Certain Foods

The Green Paper question in itself gives a rather distorted view of how the obesity problem should be approached.

Using any form of regulation (self-regulation or legislation) which merely focuses on the restriction of marketing relating to one type of food is overly simplistic and will have a limited impact on the behavioural changes required to address obesity issues in Europe.

It is in the interest of both industry and government to ensure that consumers are able to make an informed choice about the foods they incorporate into their diet. The role of consumer education in this arena cannot be overstated. Consumers should be aware of the need to eat a balanced diet and take exercise.

The UK industry, in consultation with OFCOM, has agreed that some limitation of the advertising of certain foods, particularly to more vulnerable groups such as the young, is proportionate. The AA is of the opinion that advertising codes are the most efficient way of developing new rules in this area and ensuring compliance with them.

A self-regulatory regime, operating in a co-regulatory relationship with the statutory back-stop regulator, will have the flexibility to incorporate suitable rules on food and soft drinks. At the same time it allows the use of advertising to promote balanced diets and healthy lifestyles and investment in public awareness raising, consumer information and educational programmes for children in particular.

How can effectiveness in self-regulation be defined, implemented and monitored? Which measures should be taken towards ensuring that the credulity and lacking media literacy of vulnerable consumers are not exploited by advertising, marketing and promotion activities?

Monitoring Effectiveness

As a member of the European Advertising Standards Alliance (www.easa-alliance.org), the AA is a signatory to the Advertising Self-Regulatory Charter. This Charter lays out the industry vision for effective self-regulation and is based on globally accepted codes of advertising and marketing practice from the International Chamber of Commerce. EASA is working to ensure that the Charter is implemented effectively by self-regulatory bodies across the EU and already has a monitoring strategy in place, which reports publicly on a regular basis.

More recently, EASA and its members have been working in conjunction with DG SANCO and key consumer organisations via the Advertising Round Table. This group provides a forum for discussion of codes and their implementation and has proved invaluable as a way of ensuring buy-in from consumer organisations and regulators.

Vulnerable Consumers

The Green Paper asks whether self-regulation can ensure vulnerable consumers are not exploited by advertising marketing and promotional activities. EU law on consumer protection focuses on these vulnerable consumers in both the Unfair Commercial Practices Directive and the Television Without Frontiers Directive. EU and national law is supported by the CAP and BCAP codes. Within the codes specific references to issues such as gambling, alcohol, financial services, medicines and children ensure that in sensitive areas more vulnerable consumers, particularly children, are protected.

As well as the application of the codes to advertising activities, the industry is providing support on the issue of media literacy via the Media Smart programme: www.mediasmart.org.uk and various other programmes such as Elfi Foods which relate specifically to healthy eating for children.

In which way can nutrient profiling scoring systems such as those developed recently in the UK contribute?

It is the AA opinion that it cannot comment on the scientific integrity of the profiling scheme developed in the UK by the Food Standards Agency (FSA). We refer you to the response to this consultation of the Food and Drink Federation (FDF) where the collective scientific expertise of the manufacturing industry is represented. In addition to the FDF comments, we would suggest that it is more appropriate in the context of this debate to focus on diet than individual foods and to take a holistic approach, recognising that obesity is a result of an imbalance between energy consumed and energy expended.

Conclusion

The Advertising Association is committed to promoting a responsible approach to food and beverage advertising. This is best achieved through full compliance with statutory regulation already in place, complemented by industry codes which ensure that compliance.

The Advertising Association calls on the Commission to use self-regulation as a complement to existing legislation in order to reach European health goals. It questions the need for any new EU legislation in this policy area.

The Advertising Association believes that well-informed consumers make better choices and is fully committed to ensuring reputable consumer education programmes such as Mediasmart are as widely disseminated as possible.

The Advertising Association calls on the Commission to continue to take a partnership approach to ensuring European citizens remain healthy. This approach should include government, consumers and industry.

London 15th March 2006

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