



The Advertising Association

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ADVERTISING ASSOCIATION POSITION PAPER

LETTER TO COMMISSIONER DIAMANTOPOLOU: DRAFT PROPOSAL FOR A DIRECTIVE IMPLEMENTING THE PRINCIPLE OF EQUALITY BETWEEN WOMEN AND MEN

Commissioner Anna Diamantopoulou
Employment and Social Affairs
European Commission
B-1049 Brussels
Belgium

Dear Commissioner,

I am writing with reference to the draft proposal for a Directive on gender equality, which I understand, is currently being discussed internally within the European Commission services. The Directive appears to be an operational objective as suggested in the June 2000 Communication 'Towards a Community Strategy on Gender Equality (2001-2005)'. It is the opinion of the Advertising Association that the adoption of a proposal for a Directive on this issue is both premature due to the apparent lack of consultation of concerned stakeholders, and unnecessary as such media and advertising issues must be dealt with only at the Member State level.

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 £16.5 billion in 2001. Further information about the AA, its membership and remit is available on our website at: www.adassoc.org.uk

The suggested proposal aims to implement the principle of equality between women and men where discrimination occurs in media and advertising - generally throughout all forms of mass media to avoid any discrimination based on sex, nor any incitement to hatred on grounds of sex and ensure that advertising respects human dignity. These are issues already covered by other EU measures, for example the Television Without Frontiers Directive which sets down the general principles upon which the Member States have established nationally related rules. In the United Kingdom such issues are further covered by established self-regulatory systems (see comments below). There appears no significant justification for an umbrella-style measure at the European level. Gender issues are related to national acceptance, tolerance, taste and decency to which the advertising industry responds in its day-to-day business of communicating with consumers in a highly responsible manner. What is acceptable in the UK is very different to what may or may not be acceptable in other EU Member States but these are issues for national response. National cultures are just that - and should remain so, being dealt with on the basis of subsidiarity and not at the EU level.

Our position currently is that should the Commission continue with the preparation of a measure on gender equality at the EU level, references to the media and advertising should be removed from the scope of such harmonising plans. Your article in the Financial Times (27 June 2003) noted that "Perhaps it is time to consider a voluntary, EU-wide code for advertising and media, in consultation with Member States and business". The AA would welcome the opportunity to discuss such issues with the Commission services, but states categorically that the development of detailed EU-wide codes should not be the way forward on this issue of gender equality.

Advertising industry commitment to responsible advertising

The advertising business is strongly committed to responsible advertising and to the effective and efficient regulation of it. Advertising is only successful if it maintains consumer trust and confidence. The AA considers that the current rules on decency in advertising in all media are sufficient, extensive, and rigorously applied.

In the case of non-broadcast media, advertising is self-regulated through the British Code of Advertising, Sales Promotion and Direct Marketing as created and enforced by the Committee of Advertising Practice (CAP) and administered by the Advertising Standards Authority (ASA). The Code is available at www.cap.org.uk. The UK

has one of the longest-established systems of self-regulation in Europe and the ASA is a self-regulatory body with teeth. It has a variety of sanctions and its system of compliance and adjudication is rapid.

In the case of television and radio advertisements, advertising is regulated through the broadcasting Codes laid down by the Independent Television Commission (ITC) and the Radio Authority. Specifically with reference to television advertising, the ITC is the statutory regulator enforcing the Articles as contained within the Television Without Frontiers Directive.

The AA supports greater reliance on self-regulation, and plays an active role in the development of self-regulation through the European Advertising Standards Alliance (EASA). The advertising industry's commitment to consumer protection is further exemplified especially through the 2002 statement of common principles and recommendations which underpin the operating best practice of advertising self-regulatory organisations which can be viewed at www.easa-alliance.org.

Lack of Consultation with Stakeholders: EU Governance & Better Lawmaking

The AA does not believe that the Commission's approach to the gender equality issue to date has been consistent with the principles as laid out in the EC Better Lawmaking package (June 2002). The Commission Communication (COM (2000) 335 final) makes reference in point 3.5 to 'Promoting Change of Gender Roles and Stereotypes' with a focus on the media and advertising. Point 3.5.2 also notes the following action "Promote the exchange of views and good practices in the media and create a group of media representatives to assist the Commission to implement the talks under this objective of the framework strategy". The AA must inform you that it has unfortunately yet to be contacted on this issue by the Commission in line with the preparation of an EU measure concerning the media and advertising. With this in mind we insist that if the Commission is to continue to work towards a Directive concerning issues of gender in advertising that the AA must be one of the national organisations to be consulted by your services. The AA welcomes the opportunities normally provided by the various Commission DGs in carrying out dialogue on a wealth of issues likely to affect the advertising industry. Indeed, the AA would like to take this opportunity to offer its assistance to DG Employment and Social Affairs on any matter within its remit.

The AA believes it noteworthy to make further mention of the Communications published (5th June 2002) under the banner of European Governance: Better lawmaking [COM (2002) 275 final], especially the Communication 'Towards a reinforced culture of consultation and dialogue' [COM (2002) 277 final] and note the aims of the White Paper on Governance [COM (2001) 428 final]. All relevant interests in society should have the chance to express their views at all stages of the legislative process - especially during the early stages of policy development. Firstly, consultation processes must address whether there is a substantive problem to be solved, and rigorous research must be carried out by the Commission and made available to consultees as to the causal factors relating to that problem. Secondly, the Commission should explore whether the identified problem can and ought to be resolved in the first instance by Member States, whether by self-regulatory, legislative or other means. Lastly, the Commission must consult on the appropriate means for an EU wide measure.

The Commission should ensure that all actors have an impact on the formulation of the main aims of future EU measures. Better governance can be achieved through varied means and the AA believes that 'more legislation' in certain policy areas may not be the answer where other mechanisms can be proved to be more efficient and effective. For ease of reference, the AA would draw your attention to our position paper on these topics available on this website.

I look forward to hearing from you in due course.

Yours sincerely,

Andrew Brown
Director-General

CC:
Commission President Prodi
Commission Vice-President Kinnock
Commissioner Bolkestein, Internal Market
Commissioner Liikanen, Enterprise and Information Society
Commissioner Reding, Education and Culture

David O'Sullivan, Secretary-General
Jean-Eric de Cockborne, Directorate-General for Education and Culture
Margot Frohlinger, Directorate-General for Internal Market
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Oliver Gray, Director-General, European Advertising Standards Alliance

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