



## The Advertising Association

Abford House, 15 Wilton Road, London SW1V 1NJ  
Telephone: +44 (0) 20 7828 2771 Fax: +44 (0) 20 7931 0376  
e-mail: [aa@adassoc.org.uk](mailto:aa@adassoc.org.uk) web: <http://www.adassoc.org.uk>

### **ADVERTISING ASSOCIATION BRIEFING PAPER TO ALL EU PERMANENT REPRESENTATIONS**

#### **UNFAIR COMMERCIAL PRACTICES DIRECTIVE FUNDAMENTAL IMPORTANCE OF THE INTERNAL MARKET CLAUSE**

The Advertising Association (AA) is a federation of 25 trade associations and professional bodies 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 worth over £17.2 billion in 2003. Further information about the AA, its membership and remit is available on our website at:

<http://www.adassoc.org.uk>

The AA welcomes proposals that that are based on the Internal Market principal that being lawfully established in one Member State allows commercial communications to be provided freely in the other twenty-four. This will serve to assist in the completion of a true Internal Market for Services, and the goals of the Lisbon European Council. It is this 'Country of Origin' principle that will allow companies established in the EU to be able to take advantage of the Internal Market. Barriers to this freedom will deny EU citizens getting the quality of service and choice that they deserve, whilst also restricting competitiveness within the EU. The recognition of this mutuality of interest between consumers and industry is of paramount importance.

The Council Compromise text on the Unfair Commercial Practices Directive proposes the deletion of Article 4.1 of the Internal Market Clause. The AA understands that the European Commission has agreed a Declaration, based on the view that it supports the deletion of Article 4.1 on the understanding that the Directive must provide full harmonisation. The AA wholeheartedly opposes such a move to delete Article 4.1. As the Directive currently stands, with differing views from both the European Parliament Plenary first reading and the Council's compromise texts, such full harmonisation does not exist.

The Council compromise also follows the European Parliament agreement of a 5-year derogation from the Internal Market Clause. In principal, derogations from mutual recognition/country of origin control mechanisms are unacceptable. In practice, the AA accepts that derogations could only be allowed in exceptional circumstances and only to meet the needs of Accession countries. Where such cases might arise, all proposals must acknowledge that derogations are in principle unacceptable and act to defer the Internal Market, and should only be temporary in nature.

The AA calls on the Council to re-instate Article 4.1 into the text of the Directive. The AA urges the EU Member States to remain committed to the goals of the Lisbon process. There should be no weakening of the Internal Market clause nor derogation that may harm the overall effect of proposed legislation that attempts to create a true Internal Market.

Advertising Association  
12 May 2004