

# COMMERCIAL COMMUNICATIONS

The Journal of Advertising and Marketing Policy and Practice in the European Community  
Sponsored by DG XV (The Directorate General for the Internal Market and Financial Services) of the European Commission

European Commission Delegation

Library

2300 M Street, NW

Washington, DC 20037

July 1995

Volume 1 Issue 1

## Communicating with the Communicators

John Mogg, Director General, DG XV

By the time you have read this article, I hope to have convinced you that this newsletter could become your direct line to the European policy-making process in the field of commercial communications. The term 'commercial communications' refers to all marketing communications, i.e., all forms of advertising, direct marketing, sponsorship, sales promotions and PR.

Until now, I imagine the European policy may often have seemed removed from your day-to-day activities. But now you can become more involved at a time when there are some interesting developments. Right now a policy document is in preparation here in DG XV (the Directorate General for the Internal Market and Financial Services) that is assisted by the Commission. It is intended to review the general policy/regulatory approach in the field of commercial communications.

This initiative is being launched in order to assess what (if anything) is required to ensure that the benefits of the Internal Market can be maximised in the area of marketing communication/branding strategy.

I hope this newsletter, prepared for the Commission by an independent editor, will keep you informed of the preparation and contents of this consultation document. I hope also that the newsletter will be considered by you as a channel through which you can contribute to our policy formulation and within which you can air your views, ideally with practical examples of your experiences.

The Internal Market was established at the end of 1992. This process largely focused on the free circulation of goods and came about from an analysis of the increased efficiencies that could be achieved from economies of scale in the areas of production and distribution. Marketing communications did not feature in the review that was launched in 1985; but now it is generally recognised that branding strategies are becoming crucial in advanced markets typified by ever more sophisticated and demanding consumers.

There are at least two reasons for taking a look at this area now. The first is that, following the introduction of the Maastricht Treaty, the Commission has been given new responsibilities in the form of additional policy objectives which could lead to incoherence if a new

### IN THIS ISSUE

- Developments in pan-European marketing strategies* 3
- 
- The Regulation of Marketing in Europe* 7
- 
- Editorial Comment* 11
- 
- European Commercial Communications and the Information Society* 12
- 
- Brand Diversification* 19
- 
- European Commercial Communications - report on the questionnaire* 22
- 
- The Questionnaire* 25

97/11X:299

**COMMERCIAL  
 COMMUNICATIONS**

*Sponsored by DG XV  
 (Internal Market &  
 Financial Services)  
 European Commission*

**EDITORIAL**

Mike Sainsbury  
*Editorial Director*

Kate Maitland Smith  
*Managing Editor*

Esther Grant  
*Production Manager*

Published by **asi**  
 34 Borough Street  
 Brighton BN1 3BG, UK  
 Tel: +(44) 1273 772741  
 Fax: +(44)1273 772727  
 e-mail:asi@pavilion.co.uk

**PRACTICAL DETAILS**

We plan to publish six bi-monthly issues. Depending on readers' comments and interest, a decision of a more permanent nature will be announced in the sixth edition.

All the editorial work for the newsletter is undertaken by an independent contractor. The remit is twofold: (i) to develop a newsletter which informs readers of latest developments in the European policy field concerning commercial communications and (ii) to offer case studies and views sent in by market operators/consumer associations etc. demonstrating benefits or problems arising in the marketing communications business within the Internal Market.

You have been selected to receive this newsletter either because you have participated in the questionnaire/survey mentioned in this issue or because you feature on the mailing list of the editor. More importantly, we believe that your close involvement with European commercial communications makes you a most valuable contributor to the policy consultation process.

horizontal co-ordinated approach to policy-making is not adopted in the field. The second reason is that, with the development of transfrontier television and the advent of on-line digital broadband communications (see the article on the Information Society in this issue), the opportunities for reception and use of transborder commercial communications in Europe are increasing. We feel it is therefore important to assess the extent to which there are any regulatory barriers affecting these activities and, if so, what might be done to tackle them.

DG XV is, of course, in the process of undertaking a review that will be summarised in the consultation paper. During the latter half of 1994 we ran a postal and fax/telephone survey across Europe (see elsewhere in this issue). The numerous replies received seem to suggest that certain regulatory barriers could well exist.

Preparation of a consultation paper does not, in itself, imply further restrictive regulation. The paper will analyse market developments and the existing regulatory framework. It will then set out the policy approach the Commission's services will apply in future when called upon to take action in this field. The results of the questionnaire will be summarised so as to indicate where potential action might be needed. It will then be left for interested parties to submit their views through this newsletter and written submissions as to whether indeed these "barriers" should be given further consideration at the Community level.

I believe this newsletter will serve a useful purpose for a number of reasons. First, it is necessary because commercial communications cross every sector of the economy and are aimed at all consumers. The activity has such a wide remit that it would simply be impossible for us to contact directly all the various trade, media and consumer associations (and their members) that would have an interest in this policy work. A broad and open communications channel is therefore necessary for the Commission to be able to address all these constituents.

Secondly, the market is changing rapidly. The findings of the Green Paper will therefore have to be updated through constant contacts with the relevant market players. I believe the newsletter will offer a good medium to contribute to this exercise.

I hope that I have managed to convince you that the new initiative of a newsletter is of a genuine help in ensuring the best communications are maintained between DG XV and yourself. For our part, we will continue to do our utmost to keep you posted on relevant decisions in Brussels. I hope, equally, that you will make sure the development of our policies in this important field will be based on a supply of facts from those at the heart of the activity.

Our work on the consultation paper should be seen for what it is: your means of ensuring that commercial communications can benefit in practice from the freedoms of the Internal Market to which they are entitled.

I wish this new venture every success. After all, it is we who stand to be its principal beneficiaries.

# Developments in pan-European marketing strategy

Mike Walsh  
CEO  
Ogilvy & Mather, Europe

There can be no doubt that the economic pressure on companies in Europe to improve competitive advantage is at an all-time high. The situation has been exacerbated by recession, the growing threat in many industries of low-cost competition from the emerging economies of the Far East, and the removal of geographic boundaries. In almost every consumer industry we are witnessing the same pattern: stringent cost control has dictated a reduction in headcount, the removal of whole layers of management, and the centralisation of many functions, including marketing, away from local markets into regional offices. "Transnational" has replaced "global" as the corporate ideal in many industries, combining as it does the economies of scale of a global operation with the speed and responsiveness of local operations. Management must master a new balancing act between the margin-driven concerns of the centre and the service requirements of local and regional markets.

Against this background, European branded manufacturers envisage a marketing strategy of beguiling simplicity: uniformly packaged products made centrally in lowest-cost production facilities are marketed Europe-wide backed by a single communications programme.

In reality, for most marketers this Holy Grail is some way off yet - though the more far-sighted among them are already firmly embarked on the quest. The pitfalls are legion and obvious - distribution problems and legislative disparity spring immediately to mind. Yet it is ironic that, of all the obstacles, the one proving perhaps hardest to surmount is the one whose co-operation is absolutely vital - the consumer.

Post-Common Market, post-

Maastricht, post-EU, there is still little evidence of true convergence among European consumers. The forces of individualism and nationalism (both invented in Europe, let's not forget) may have relaxed their grip to an extent, but have not yet been replaced by a convincingly "European" consciousness. And as Europe continues to expand east, we are becoming more, not less, diverse. The fact that we are more willing to holiday in one another's countries, drive one another's cars and sample one another's cuisine has undoubtedly softened consumer attitudes and prejudices, but there's a long way to go.

Another aspect that militates against a truly European approach to marketing is the under-developed nature of cross-border media. Despite the rapid advances in media technology, no more than five per cent of available media can be termed pan-European, much of it in specialist and niche areas such as the business press and MTV. A much greater level of penetration is required if the "single market" is to be made a reality.

On the surface, this sounds a gloomy prognosis; it is not. Marketers need not fear this challenge if they understand, and are prepared to invest in, the capability of their greatest asset: the brand. And there are very strong indications that after the momentary panic of the early '90s - occasioned by recession and a failure of nerve - the brand has re-emerged as the best

*...the brand has re-emerged as the best means of creating and growing ...pan-European markets*



Mike Walsh

means of creating and growing genuinely pan-European markets. It can be cause as well as effect. It is also, once again, recognised as the best means of sustaining competitive advantage.



The desire - indeed the pressing need - to develop cross-border franchises for consumer brands is leading manufacturers and their marketing services partners towards a new mentality, one which refuses to

dwell on the differences between consumer attitudes, but instead delves deeper to unearth the basic similarities. This is largely uncharted territory, but in many industries the more sophisticated marketers, through intensive research and scrutiny of consumer attitudes to brands, are uncovering commonalities beneath the apparent surface contradictions. Harness these commonalities to your brand and you can arrive at the basis of a transportable marketing and advertising strategy.

An example from the stable of brands with which Ogilvy & Mather is entrusted illustrates the point; it is also, happily, one of the most successful and widely-marketed products in its category across Europe:

Unilever's Dove soap, a best-selling line in the United States since the mid-1950s, was introduced into Europe in the late '80s and has proved an astonishing

success, now marketed in 22 countries. In many of these markets, it has taken the top slot in the beauty soap sector. Traditionally marketed as the soap that moisturises as well as cleans, this feature of the product had, by the time of its European roll-out, been widely copied by many competitors. But advertising for the brand, while retaining this "product benefit", consists of testimonials from real users that "add value" by showing how it can invigorate and lift the confidence of the user beyond its mere function. This "emotional benefit" is applicable to women in any market, transcending differences in local usage or attitudes to cleanliness. It has the advantage to the manufacturer that advertising can be produced to a central template, ensuring a uniformity of branding across all markets - and a considerable cost-saving.

As pan-European markets develop, we can expect to see manufacturers placing a greater emphasis in advertising and other promotional media on the emotional, intangible benefits that properly-managed brands bring with them - particularly in categories where product performance has become almost impossible to differentiate. Consequently, a greater effort than ever before will be required to understand thoroughly the relationship between brand and consumer in the international context.

This kind of approach is of course not practicable for every brand wishing to move toward a pan-European marketing strategy. In cases where brands have already been marketed in a variety of markets for some time, manufacturers must take careful heed of consumers' existing perceptions - all the more so if the brand

***...advertising can be produced to a central template...ensuring a uniformity of branding across all markets and a considerable cost saving.***

has been marketed well. (Consumers don't appreciate having trusted brands tampered with! Witness the furore in the US when Coca-Cola altered the nation's favourite soft drink to produce New Coke.)

BMW is a case in point. The Munich-based car giant has had considerable success in boosting overseas sales in recent years, particularly in the US and UK, where it has skilfully nurtured its cool, premium image as a manufacturer of leading-edge technology, "the ultimate driving machine". However, this positioning would be baffling to its core German-speaking markets, where it is regarded, though still upper-market, as a much more workaday, practical brand. Indeed, BMW's attempt not long ago to centralise its marketing and advertising strategy encountered such strong opposition from local management in its non-domestic markets - who were rightly fearful of the loss of local brand equity - that it was forced to abandon the plan. It is not only consumers that resent being shoe-horned into overly neat strategies!

Nonetheless, the streamlining of marketing strategy is still a major preoccupation. In advertising during the last twelve months we have seen the consolidation of agency arrangements by a very impressive list of names - including Sony, Sega, IBM, Seat, Volkswagen, Polaroid, KFC and Burger King. That these companies chose to put all their business into a single agency or network of agencies demonstrates in itself their concern for economies of scale and efficiency. But more significantly, for most of them it signalled a return to an investment in longer-term strategic brand advertising, and a rejection of the short-term tactics and product-led advertising of the early 1990s.

A painful lesson has perhaps been learnt: many of the companies above cut their brand investment during the recession

and were dragged into price-cutting and promotional wars, creating a vicious circle. Yet quite demonstrably it was those companies that kept faith with their brands that weathered the recession in best shape. And those companies that have successfully preserved their brand equity while completing the necessary downsizing in other areas will form the leaner, meaner elite at the forefront of business growth in the years to come.

The role of brand advertising within many companies' marketing strategy has also undergone a subtle but important change. Many leading advertisers, particularly those that operate multi-nationally, are abandoning the high corporate tone that characterised a lot of brand advertising in the 1980s. They are recognising - somewhat belatedly - that the very size and scale of their operations arouses consumer mistrust and suspicion. Talk of the "caring, sharing" '90s has been overdone, but many companies - especially in the more overtly technology-driven industries such as IT, telecommunications and automotive - are now employing brand advertising to present a more accessible, personal aspect to consumers. This trend accompanies a growing understanding of, and respect for, the role of direct marketing and database management in recruiting and retaining customers through more individualised relationships.

The example of another Ogilvy & Mather client, IBM, encompasses many of these changes. Until a year ago, IBM was organised along conventional geographic lines, with the different regions using a multitude of marketing services suppliers, including more than 40 advertising agencies world-wide. Unsurprisingly this had

*...those companies that kept faith with their brands..weathered the recession in best shape.*

resulted in a severe fragmentation of its sales messages, and a dilution of its brand, once reckoned the most valuable in the world.

In May last year, the computer giant ditched its total roster of agencies and moved its entire advertising business, and the major part of its direct marketing and related services, into the Ogilvy network. It also reorganised its marketing operations into teams covering different industry sectors managed at a European or worldwide level. The ensuing communications programme has attempted to replace IBM's previously rather staid and stuffy image with a lighter, more human approach, including a core brand advertising campaign running in over 40 countries globally. The emphasis is less on the specifics of product performance - though this is obviously still important - and more on the security and service that the IBM brand represents.

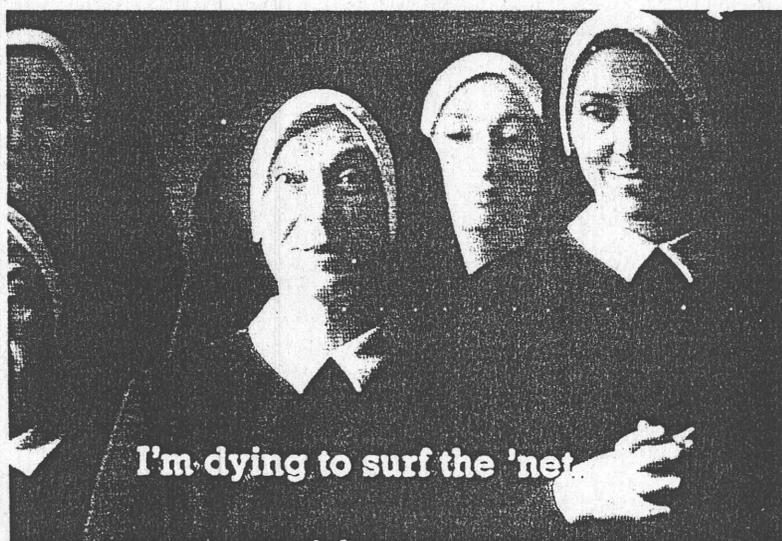
For marketing services companies, the on-going structural changes in clients' international business have caused con-

siderable headaches. The once easily-accessible local client may have disappeared, replaced by a regional director located in a different country; flatter management structures may have made identifying the true client and reporting line problematic; clients in transition from local to transnational status may require a duplication of effort at the centre and locally, complicating agency staff arrangements.

But solutions to these problems are emerging: at Ogilvy & Mather, where 28 of our clients are serviced in five or more European countries, we are evolving our World-wide Client Service. "Virtual networks" of brand teams led by a core group are tailored to each client's specific needs, in an attempt to match the responsiveness and agility that is a principal goal of business in the Nineties. These teams can operate across borders and across disciplines, liaising with local resources where necessary. Marketing communications for clients including American Express, Ford, IBM, Lever, Seagram and Kraft Jacobs Suchard is co-ordinated along these lines.

Finally, although the structures of pan-European marketing may still be evolving (the concept is still in its relative infancy), marketing services companies should be encouraged that the focus is apparently once more back where it belongs: on the brand. This is after all the area of our expertise: understanding the brand and its role in the life of its users, then bringing that understanding to life via the application of creativity, whether to create a commercial, a press ad, a persuasive mailing, or any other expression of the brand.

***For marketing services companies, the on-going structural changes in clients' international business have caused considerable headaches.***



# The Regulation of Marketing in Europe - Home or Host Country control?

Richard Thomas  
Director of Public Policy  
Clifford Chance

The Internal Market is supposed to have been completed. Yet there is no agreement as to the nature and extent to which marketing is to be regulated; nor how regulation of marketing is to be effective.

Advertising and other marketing techniques are essential for the smooth and efficient operation of any market. It is in the interests of both businesses and consumers that there should be full opportunities for promoting their goods and services through all available media. At the same time a suitable regulatory framework is needed, not least to promote public confidence in marketing claims.

One of the most difficult issues which must be addressed by the European Commission's forthcoming Green Paper on Commercial Communications will be the extent to which a system of "Home Country Control" can or should be established. By this it is conventionally meant that the rules of the originating Member State should govern the acceptability of a particular marketing exercise. In other words, should an advertisement, mail shot, sales promotion or other form of commercial communication which is legally acceptable in the country from which it is despatched or commissioned be freely accepted in any other Member State where it appears? The issue in fact has two aspects - whose controls should apply and how should they be enforced?

This article concludes that, at least for the short-term, neither Home Country nor Host Country Control would be acceptable. Instead some sort of "middle way" is needed. EC Legislation should establish clear and objective criteria for assessing the legitimacy of controls in the Host Country (where the consumer is based). At the same time, the authorities in the Home Country (where the business is based) should have a clear role in signalling acceptability or otherwise where en-

forcement action is contemplated in the Host Country and, where appropriate, in ensuring effective enforcement action in their own country against offending businesses.

## Differences in national legislation

The problem is acute. Considerable differences exist in the laws relating to advertising, direct marketing and sales promotion across the different countries of Europe. These differences are not just matters of legal technicality - they reflect fundamentally different attitudes towards the legitimacy of different techniques. It is also important to remember that most of the laws that prohibit or regulate particular activities were originally enacted as a means of dealing with supposedly unfair competition, rather than as protection for consumers against harmful practices.

Take the area of sales promotion as an example. A relatively liberal environment is to be found in the United Kingdom and Ireland - where most of the detailed Do's and Don'ts are matters of self-regulation. At the other end of the spectrum is the heavily regulated German market where the law imposes complete prohibitions on practices which would not raise any eyebrows among British business people, consumers or regulators. The detailed differences have been documented by the Institute of Sales Promotion in its publication entitled "The European Promotional Legislation Guide". A table in that report graphically sets out the various practices which the different countries permit, prohibit or may permit.

In France there are detailed restrictions on the use of free gifts, with monetary limits linked to the price of the product which is being sold. Germany imposes a general ban on free gifts under the Gifts Regulations - subject only to *de minimis* exceptions. There are also financial limits on cash or voucher refunds and



Richard Thomas

*...differences are not just matters of legal technicality.*

**Differences in legislation obviously amount to a substantial barrier to a genuinely integrated European market.**

discount promotions; and a prohibition on specific comparisons with previous prices. In Italy it is necessary to obtain the prior approval of the Ministry of Finance for any sales promotion which includes free gifts, and limits on their value. There is also a ban on price rebates which may injure the business of a competitor. In Sweden any premium must have a "natural connection" with the main item. A wine glass with a bottle of wine would be permitted, but a wine glass with a tank of petrol would probably not. A similar test is applied in the Netherlands, but with a further proviso that the value of the premium item must not exceed 4% of the value of the main item.

In Denmark, specific prohibition of "collateral gifts" (premium offers) was introduced as early as 1912 and is now contained in the Marketing Practices Act of 1975. In one case a garage advertised that everyone who brought their car in for repair could borrow another car free of charge while their own was under repair. There was no evidence that the garage was more expensive than competitors, or that some sort of car rental was hidden in the repair bill. Nevertheless, 4 out of 5 judges of the Danish Commercial Court found that this was a violation of the Marketing Practices Act as the car loan was considered equivalent to a collateral gift (1985 UfR645).

### **Challenge under the Treaty of Rome**

Differences in legislation obviously amount to a substantial barrier to a genuinely integrated European market. As a broad principle it can be said that - leaving aside television advertising - the rules of the Host Country must be observed unless those rules conflict with Treaty obligations.

Until recently, the European Court of Justice (ECJ) appeared quite ready to strike

down national marketing rules which inhibited free movement of goods and services. In cases like *Oesthoek* (286/81), *GB Inno* (362/88) and *Yves Rocher*, the Court signalled a willingness to attack marketing rules which could not be justified as necessary and proportional on the grounds of consumer protection, commercial fairness or other aspects of public policy. The jurisprudence was certainly moving in the direction of Home Country Control.

There appears recently however to be a significant retreat from this position in the important *Keck & Mithouard* case (267/91). A challenge was made here to the French law which prohibits resale at a loss. In this case the ECJ attempted to narrow the scope of Article 30. It wished to re-examine and clarify the case law "in view of the increasing tendency of traders to invoke Article 30 of the Treaty as a means of challenging any rules whose effect was to limit their commercial freedom even where such rules were not aimed at products from other Member States." National restrictions on prohibition of particular selling methods would not constitute an obstacle to trade if they applied with equal force to all traders and affected domestic products in the same way as imports.

### **EC Legislation**

The *Keck* decision makes it less likely that the regulatory differences can be resolved by ECJ litigation applying the broad principles of the Treaty of Rome. It looks increasingly as though the Green Paper will have to propose ways of addressing these issues through legislation.

What line should the Green Paper take?

My own view is that Home Country and Host Country Control exist at opposite ends of a spectrum and that neither extreme would be acceptable to the European Parliament, to Member States, nor to the directly interested parties. Host

Country Control means that a multiplicity of regulations will seriously inhibit trade, to the detriment of both businesses and consumers. By contrast, Home Country Control involves direct and immediate challenge to deeply held traditions and systems built up over years, through democratic processes, in each Member State for a variety of motivations. It involves "negative integration", ultimately at the level of the lowest common denominator, sweeping aside necessary protections and benefits.

A "middle road" must therefore be pursued. The Green Paper needs to pursue the goal of free circulation for marketing materials, but to propose specific measures for challenging the legitimacy of restrictive measures which cannot be justified. This could be done by EC legislation focused on marketing which elaborates criteria for deciding whether national rules can be justified in the public interest or for the general good. These would be directed at protecting consumers against specified abuses and promoting maximum transparency, but not protecting businesses against unwelcome competition. For example there is general agreement about the need for a degree of intervention - to deal with fraud, deception, misleading claims, risks to health and safety and to provide for mandatory disclosure where transparency is needed. Such criteria could be drafted so as to present a direct challenge to national measures which seriously restrict marketing and which are manifestly protectionist. Ultimately, it would be for the ECJ to decide whether national measures sufficiently accorded with the EC criteria.

### Enforcement

It is necessary, however, to address enforcement, as well as the substance of marketing rules. Perfectly acceptable rules prohibiting deceptive advertising

are useless if fraudulent mail-shots can be sent with impunity from another Member State. Enforcement at the EC level is unlikely to prove acceptable, which means that all the relevant rules must be enforced within Member States.

In the UK, the "home authority" principle has been developed by the trading standards service to support the policy that regulation should be enforced by those closest to the heart of the businesses concerned. This involves each of 126 local authorities accepting responsibility for the national trading activities of identified companies, normally all those with a head office within their own boundary. Other authorities agree to abide by the advice and actions of the home authority. The arrangement is widely respected and works reasonably well, despite having no legal foundation. The attraction for businesses operating at the national level is that they can obtain a uniform approach which will apply to all their activities without risk of challenge in different parts of the country.

At the international level, where there is an awareness of the major obstacles in the way of any sort of formal enforcement action for dealing with cross-border marketing abuses, some of the features of the home authority principle are already starting to emerge.

The International Marketing Supervision Network was launched in October 1992. With a membership of regulatory authorities from twenty countries extending across Europe and beyond, its purpose is to encourage practical co-operation and the exchange of information with the objective of preventing cross-border malpractice. The practical actions which the network promotes include the maintenance of contact lists in each participating country, mutual help (insofar as possible) at the operating level in tackling specific problems, regular bilateral and

***The Green Paper needs to propose specific measures for challenging the legitimacy of restrictive measures which cannot be justified***

multilateral exchanges on topical issues, and the exchange of information about legal and administrative arrangements and enforcement methods. It will concentrate on frauds, deceptive schemes and misleading claims which cause economic damage. Its activities are entirely consistent with the recommendations of the High Level Group on the operation of the Internal Market which called for informal partnerships among Member States, particularly information sharing and the pooling of expertise. In time, it may identify what conventions or other international law measures are needed to facilitate cross-border enforcement. In the meantime, informal co-operation will be the main way of addressing specific prob-

lems. The parallel establishment of the European Advertising Standards Alliance provides complementary co-operation at the EC level among self-regulatory bodies.

### Conclusion

To sum up, I see an overall strategy based on 3 key elements:

1. regulatory controls over marketing confined to those which can be objectively justified as necessary and proportional in terms of explicit public interest/general good criteria;

2. national enforcement;

3. considerable cross-border co-operation, so that the Home Country authorities can tackle real abuses, but with a *de facto* acceptance of Home Country rulings on the legitimacy of marketing materials where enforcement action is under contemplation in the Host Country.

This strategy implies a gradual - but not immediate - shift in favour of Home Country Control, during which time (despite the remaining barriers and frustrations) the Internal Market is bound to become more mature in practice. This must lead to the idea of Home Country Control becoming more widely acceptable. During this developmental stage, particular marketing techniques will increasingly be copied and adapted from one country to another. As activity increases, and harmonises there will be greater confidence that completely unacceptable activity is not going to be tolerated. As the substance of most of the rules becomes more aligned across the whole of the Community, any remaining national rules which are completely out of step will be seen to be superfluous. The end result should be a system which will enable both businesses and consumers to take full advantage of the Internal Market, while giving consumers (and competitors) confidence in the integrity of marketing claims.

### EU MEMBERS OF THE INTERNATIONAL MARKETING SUPERVISION NETWORK

|                 |   |
|-----------------|---|
| Austria         | Federal Ministry for Health, Sports and Consumer Affairs                              |
| Belgium         | Economische Algemene Inspectie  |
| Denmark         | The National Consumer Agency  |
| Finland         | Consumer Ombudsman  |
| France          | Direction Générale de la Concurrence, la Consommation et de la Répression des Fraudes |
| Germany         | Verbraucherschutzzverein<br>Bundesminister für Wirtschaft                             |
| Ireland         | Office of Consumer Affairs and Fair Trade   |
| The Netherlands | Ministerie Van Economische Zaken  |
| Portugal        | Instituto Nacional de Defesa do Consumidor  |
| Spain           | Instituto Nacional del Consumo  |
| Sweden          | Consumer Ombudsman  |
| United Kingdom  | Office of Fair Trading<br>Department of Trade and Industry                            |

Other countries within the network are Australia, Canada, Hungary, Japan, New Zealand, Norway, Switzerland and the United States.

# Editorial Comment

Some two years ago the European Commission started a long period of consultation with industry to review the commercial communications sector within the European Union. The need for this review has already been outlined by the Director-General in this issue's cover article and this Newsletter itself will make an important contribution to the process.

To a great extent, the contribution *Commercial Communications* can make depends on you, the reader. The publication does not only seek to provide you with an overview of the Commission's policy priorities and current thinking in this area. It also seeks to provide you with an opportunity to take part in the policy-making process by responding in its pages.

Many of the issues covered will relate to the regulatory framework(s) within which commercial communications are conducted. However, the Newsletter will also seek to provide information, opinion and case history material which it is hoped will be of practical benefit to its readers. In so doing, it will provide a practical context for the consideration of policy-making issues.

This would seem to be most important. Where there are difficulties they need to be highlighted specifically, for otherwise policy making is in danger of being too abstract and theoretical. This is so whether your concerns are from the point of view of industry (large or small), of the communications services provider, of the media or of the consumer. If you wish to express these concerns, all you need do is contact the Newsletter's editorial department. You will find the details on page 2.

It may be that you feel this publication would be of particular benefit to someone else within your company. If this is the case, we would be grateful if you could pass it to the individual and send the details to us (see below) so we can make the necessary changes to our database.

## COMMERCIAL COMMUNICATIONS

is published by **asi**

34 Borough Street Brighton BN1 3BG UK

Tel: + 44 772741 Fax: + 44 772727 e-mail: [asi@pavilion.co.uk](mailto:asi@pavilion.co.uk)

Forenames .....

Job Title .....

Name.....

Tel No: .....

Address.....

Fax No: .....

.....

E-mail .....

Country.....

Postcode.....

# European Commercial Communications and the Information Society

Paul Waterschoot  
Director  
DG XV/E

The advent of the Information Society has key implications for the development of the commercial communications sector. At the same time, commercial communications will have a key role to play in facilitating the development of the range of on-line services which will help establish such a Society in the European Union.

On the first point, the promised widespread development of new infrastructures allowing for rapid interactive multimedia communications would bring the users of commercial communications three key benefits. They would enjoy greater creative flexibility within which to frame their branding messages. Secondly, they will be able to target their messages more precisely. They will also be afforded improved measures of the effectiveness of their communications.

The commercial communications service providers will have to maximise these benefits by drawing on their creative and targeting skills to make the new communications sufficiently attractive for on-line consumers to select them and for potential clients to invest in them. Likewise, the increased fragmentation of media will require media operators to increasingly shift at least part of their operations towards specialised services.

On the second point, new media operators and other service providers are fully aware that for the new interactive on-line services to be affordable, they will have to be underwritten by commercial communications budgets (as has been the role of advertising for all the traditional media). If this does not happen, then the services will be limited in scope and the promised investment in widespread infrastructures

will not materialise.

The development of on-line interactive commercial communications services (including on-line sales channels which merge the commercial communications and distribution functions of a business) is therefore a critical element in any successful transition towards an Information Society. The two issues are inextricably linked and policy-makers need to account for this when considering how commercial communications are regulated in the future.

## European Commission initiatives in the field of the Information Society

The European Commission has been closely involved in these and other associated policy debates. Interest began with the White Paper on Growth and employment<sup>1</sup> which highlighted the new challenge offered by enhanced digital broadband communication networks. The White Paper stressed that Europe had to face up to this challenge if it were not to lose its competitive advantage with its trading rivals who were already embarking on the information superhighways.

***For the new on-line interactive services to be affordable, they will have to be underwritten by commercial communications budgets.***

In order to assess the perceived regulatory needs of the key industrial players involved with such a transition, there followed the High Level Group (chaired by Commissioner Bange-mann) which prepared a report<sup>2</sup> that was submitted to the European Council in Corfu on 24-25 June, 1994. The Commission took the conclusions of this report and drafted an Action Plan<sup>3</sup> in July 1994. This presented a list of actions/initiatives - many of which were already under way - that needed to be completed in order to lay the foundations necessary to set Europe on the path to-

wards an Information Society.

Although the Action Plan addressed the need for helping the development and promotion of new pilot applications, by far the greatest part of the text focused on regulatory requirements. In addition to the announcement of key infrastructure based liberalisation, standardisation and tariffication measures, this part of the communication also covered important measures of interest to non-basic telecommunications service providers, viz. privacy, copyright, media-ownership and encryption issues. It also highlighted the need for competition rules to be applied in an effective manner and drew attention to the Commission's existing audio-visual regulatory policy<sup>4</sup> and its emphasis on the

***The key characteristics of increased choice and control can only come from a wide mix of services.***

need to ensure the free circulation of television broadcasts within the Union. The importance of this particular initiative was justified by the view that:

"Traditional television remains an important service with regards to extending the information society into the home".

### **Commercial communications and the Information Society**

The primary role of the Commission's Action Plan was to list the regulatory initiatives and pilot projects that were directly associated with the project. With the Green Paper on Commercial Communications currently under preparation, the Commission hopes to stress the positive indirect effects that these communications will have for future Information Society service providers as well as the direct benefits that commercial communicators themselves can enjoy through use of the enhanced interactive communications.

The need for transborder commercial communications in order to establish the

Information Society stems from an assessment of the market requirements that will allow for the transition towards the political goal as currently defined by the Information Society.

#### **(i) The need for a multiplicity of new niche services.**

The Information Society is, above all, being characterised as a Society where the consumer (including the receiver of advertising and other marketing communication messages) and citizen is given far more control through access to and interaction with a vast new array of information-based services.

Increased choice implies a multiplication of the existing supply of such services. The key characteristics of increased choice and control can only come from the supply of a wide mix of services from which the consumer and citizen can select the elements that best suit his or her tastes and interests.

It follows that the Information Society will be characterised by a multitude of niche service markets at a level of disaggregation that cannot even be imagined today.

#### **(ii) Path-finding innovative and attractive services will be required to move away from the networked elite to the mass consumption market.**

Since, initially, only a few services will be offered and given that the real connection/investment costs for the user are likely to be significant (whether the connection is through a sophisticated TV set top box or a modem connected computer), these first services will have to be

highly differentiated from existing services if consumer interest is to be translated into real and extensive demand.

Electronic mail and bulletin boards may be sufficient for computer enthusiasts but they will not interest the general

***(Marketers') investment decisions will rely on assessment of the "value-added" of... interactive/multimedia message delivery systems***

public sufficiently to invest in the hardware access "ramps" on which the success of the Information Society relies. Only novelty and originality will tilt the balance of interest away from the computer whiz-kid towards the man in the street. However, such original services are likely to be highly expensive to develop.

**(iii) Affordability of the new services is required if they are to be used by a wide cross-section of the European population as implied in the concept of an Information "Society".**

The condition that on-ramps should be invested in by the mass market requires that the new Information Society services be priced at attractive levels in order to stimulate demand. Although the development costs of such services might be partly amortised in the business-to-business market, it is still the case that in order to be attractive to the mass market they will have to be priced at competitive levels. Thus, affordability is a key condition which has to be achieved if we are to move to a true Information Society.

In order to reach the seemingly incompatible goals of highly innovative, niche and competitively priced new Information Society services two complemen-

tary conditions are required:

Wide (in geographic terms) diffusion so that the individual niche markets can attract sufficient demand to be viable.

"Subsidisation" or "underwriting" via the innovative use of commercial communications around and within these new services.

Two key policy implications for commercial communications result from this. A need for:

- (i) a coherent transnational regulatory approach combined with
- (ii) a regulatory "openness" towards the combination of commercial communications within the new services.

From this the "indirect" benefit of commercial communications is evident. However, it will not be for the interests of the new service providers that marketers will undertake such communications. Their investment decisions will rely on assessment of the "value-added" of such interactive/multimedia message delivery systems. In this respect, three immediate advantages over more traditional media advertising and direct marketing methods become apparent.

**Three potential benefits awaiting European users of commercial communications.**

- (i) Increased cross-border potential due to the "international" computer culture.**

The first is the international culture characterising the new information networks.

Computer users tend to have their own culture which is not geographically constrained.

The new forms of networked commercial communications could therefore provide a new opportunity for those advertisers seeking to undertake cross border commercial communications.

**(ii) Integration of communication and ordering allowing for more effective monitoring of advertising effectiveness.**

The second is the shortening and even combination (via an increasing amount of "through-the-line" activity) of the commercial communication with the sale or order. This allows for improved measurement of effectiveness of the promotion and therefore greater possibilities of control of marketing/promotional budgets. This, in turn, is bound to lead to clients reassessing the effectiveness of other parts of their communications portfolios.

**(iii) Reduced or differing reliance on retail outlets.**

Finally, certain clients will see the new interactive commercial communication service possibilities as a means to improve the retailing side of their businesses. For those who own their own retail outlets, this will be achieved by reducing overheads in the traditional sales/distribution sides of their businesses. For example, on-line car sales channels where the final step leads to the viewer ordering a test drive at the time and place of his/her convenience could lead to rationalisation of the dealership side of the car business.

For those who rely on independent retailers, the possibility for increased direct sales will be assessed in so far as it helps reduce the power of retail groups in the traditional distribution of branded

products.

Both of these adjustments could lead to a switching of retail/distribution budgets into communications budgets which would obviously be to the benefit of those communication specialists seeking to work on the European superhighways.

These three points demonstrate the significant challenges but also the significant benefits that could arise from the development of Internal Market-wide interactive commercial communications services for both clients and forward looking agencies.

**Implications for the regulation of commercial communications**

The regulatory implications are, on the one hand, that the free circulation of the new Information Society services over borders be assured. This does not imply a need for a new policy action since it is enshrined in one of the five freedoms established by the Treaty of Rome within the context of the Internal Market. All that is required therefore is vigilant application of this part of the Treaty by ensuring that the principle of mutual recognition is applied.

***(The Green Paper) will advocate the need for a coherent European approach to policy-making in respect of commercial communications***

The free circulation principle allows service providers to benefit from the one-stop regulatory shop (country of origin control). This not only improves efficiency in providing the relevant services (once compatible with the national regulatory framework the campaign can be used across the Union) but also enhances consumer protection. Consumers have a right to redress in the country of establish-

ment of the guilty party, where he/she can be the most readily and effectively brought to justice.

On the other hand, there is also a secondary obligation to be particularly vigilant that the same freedom to circulate

***These national codes and Community considerations demonstrate the danger of regulating new interactive multimedia on-demand communication services as if they were equivalent to traditional broadcasting services.***

and benefit from the "one-stop shop" is guaranteed for commercial communication services within the Union given the key roles identified above.

The Green Paper on Commercial Communications which is currently under preparation seeks to establish a framework that would allow for this. Furthermore, it is being drafted with due regard to the lack of industry conviction in this field resulting from the past manner with which commercial communications were typically the targets for restrictive rather than liberalising policy measures.

The Green Paper will seek to achieve its aim by explaining the key role that efficient transborder communication campaigns can have in providing for the realisation of the Internal Market. It will advocate the need for a coherent European approach to policy-making in respect of commercial communications. It will seek to prevent refragmentation of the Internal Market for commercial communications by policy initiatives which are aimed at other objectives (public health, media pluralism, culture, protection of the consumer).

By highlighting the enhanced possibilities of crossing cultural barriers which

the new broadband communication networks will offer, the Green Paper will also, one hopes, encourage those involved in these activities to re-evaluate their acceptance of the present fragmented European regulatory patchwork.

### **Real risk of refragmentation**

There would be a real risk of refragmentation of the Internal Market for commercial communications if the Commission were not to take or be supported in its position.

The Green Paper is due to be published in the autumn of 1995. However, regulators will not wait for that date to begin to set the scenario. Already, trends at the national level are forcing the European legislators' hand. A good example can be seen in the context of the revision of the Television Without Frontiers directive.

### **The example of teleshopping - Regulating commercial communications for media rather than users/consumers needs.**

In dismantling the previously over-restrictive one hour limitation on teleshopping programmes and allowing for dedicated teleshopping channels (reflecting the increasing spectrum availability thanks to digital transmission) the Commission, in its proposed revision of the Television Without Frontiers directive, also proposes to follow certain Member States such as the UK and France in subjecting teleshopping programmes to the regulations applying to TV spot advertising. Furthermore, at one stage in the preparation of the directive, the notion of banning spot advertising from dedicated teleshopping programmes and channels (already applicable in the UK) was also considered given that Member States had followed this route in many instances.

These national codes and Community

considerations demonstrate the danger of regulating new interactive/multimedia on-demand communication services as if they were equivalent to traditional broadcasting services. In effect, this traditional media policy approach gives undue weight to the needs of broadcasters and little consideration to the needs of new service operators or the consumer.

For example, the advertising spot ban on teleshopping channels in certain Member States reflects a dubious view that teleshopping acts as a substitute for TV spot advertising and therefore must not be allowed to benefit from the traditional commercial TV broadcaster's main source of revenue. It demonstrates how the lack of a coherent commercial communications policy at the national and Community levels leads to the activity being over-regulated in a manner that gives scant regard to consumers needs and no consideration to its role in the Internal Market/Information Society. The approach focuses solely on another sector's needs; that is to say, the needs of traditional TV broadcasters and programme producers.

### **Lack of lobbying**

Given the positive effects of the foreseen new forms of commercial communications on marketing efficiency and on the development of new Information Society services, and considering the threat of inappropriate regulation that is already apparent, one would expect that industry and consumer associations would be calling for a clear, transparent regulatory framework for such European commercial communications. The market observer might therefore be surprised by the relative lack of attention that has been given to these issues<sup>5</sup>. Yet there appear to be two reasons for this lack of enthusiasm:

(i) First, on the part of the users of

commercial communications in Europe, national and European regulators are often seen as disabling rather than promoting the market for commercial communications services.

(ii) Second, European users and providers of such communications services have often felt forced to bow to national cultural differences and are therefore relatively unaccustomed to thinking in terms of an Internal Market for such communications.

### **The way forward**

The way forward for commercial communications in the Information Society will need to be based on a European regulatory approach built on consensus between those most directly involved.

Through the Green paper consultative process which began last year with the pre-drafting survey and questionnaires, users, providers and consumers of commercial communications must play a more active role in the development of an appropriate regulatory framework allowing for the multiplication of such trans-border services within the Internal Market.

***The market observer might therefore be surprised by the relative lack of attention that has been given to these issues.***

Reliance on other operators providing infrastructures or media will not suffice, since it is due to such a passive attitude in the past that commercial communications have tended to be used to achieve other policy goals and have found their positive contribution to be largely ignored by policy-makers.

In addition to the Green Paper, the

Information Society debate provides an ideal platform for those involved in the activity to demonstrate its importance on the basis of the points made above. There is little doubt that, as the new broadband communication possibilities open up, those sectors involved in commercial communications service provision will face significant structural changes requiring large-scale investments. An outdated position of immeasurable cultural barriers preventing the development of international commercial communications services within Europe and a "wait and see" attitude run the risk of leading to fragmentary national regulations of an inappropriate nature. This would play into the hands of the commercial communications industries of our major international trading partners and undermine Europe-based investments.

One can therefore only hope that interested parties in Europe will grasp the opportunity of the Green Paper process and promote the Internal Market approach (country of origin application) in their contacts with both national and European regulators working in this field.

### Footnotes

<sup>1</sup> "Growth, Competitiveness, Employment: The Challenges and Ways forward into the 21st Century" White Paper, European Commission, Luxembourg, 1994.

<sup>2</sup> "Europe and the global information society - recommendations to the European Council".

<sup>3</sup> "Europe's way to the Information Society: An action plan." Communication from the Commission COM (94) 347 final.

<sup>4</sup> Council directive 89/522/EEC of 3 October 1989 on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning pursuit of television broadcasting activities EC OJ 17/10/89, L298/23.

<sup>5</sup> Some trade associations are making efforts in this respect. For

example, the European Advertising Tripartite recently ran a well attended conference in Brussels on this issue where some key points were raised by several forward-looking practitioners.

# Brand Diversification

## The need to guarantee the freedom to do business

Nick Masson  
President  
Worldwide Brands Inc.

The European Union and its Member States have, over the last 10 to 15 years, initiated several measures which in one way or another deal with the way in which business communicates with consumers. Various measures or proposals have emerged from different European Commission Directorate-Generals, each of them pursuing their own policy objectives.

It is therefore to be welcomed that Directorate-General XV has taken the initiative of assessing the need for a more coherent commercial communications policy within the context of the Internal Market.

The relevance of such a policy is that a true Internal Market can only function if the right of business to communicate with its customers, and indeed the corresponding right of consumers to be informed about products, is properly acknowledged and protected.

In the parlance of the marketing world, an Internal Market consisting of hundreds of millions of consumers will depend greatly on the power of brands to break down national boundaries and overcome linguistic barriers. Advertising and brands are inseparable; brands will provide the foundation for the Internal Market. If that be the case then it is very important to be clear as to the meaning of a brand.

### What is a brand ?

A brand has been defined as a means:

- of helping people make a purchasing choice,
- by expressing expertise and personality,
- and thereby establishing a relationship with the consumer.

None of these is possible without mass communication, since without communication one cannot express anything. Overwhelmingly, advertising is the tool best suited to meet this demand.

### Brand diversification

A new feature of the modern market place is brand diversification. It has been defined as the commercial exploitation of a brand name through the transfer of the mother product's brand image to other product categories under the same name.

Two preconditions are essential: the

*....an Internal Market consisting of hundreds of millions of consumers will depend greatly on the power of brands to break down national boundaries and linguistic barriers*

image transfer can only take place successfully if the mother product has a strong established brand image and provided the transfer of the image can be imparted to the consumers via commercial communication.

Brand diversification usually takes place in the area of premium-priced consumer products and services, since it is in this sector that the brands with the strongest image and values occur. Established global brands, to which most brand diversification products belong, are even more inclined to launch pan-European commercial communications campaigns than lesser known brands.

Why is this phenomenon taking place?

### Business diversification

As a starting point it has to be remembered that, nowadays, brands are often the least tangible but most valuable part of a company's business. That this is so

was evinced in the late 1980s by the growing practice of including brands' valuations on corporate balance sheets.

The primary motivation for business diversification through utilizing brand diversifications is the exploitation of value in other product areas.

As with any business investment, the ultimate aim of brand diversification is a financial return on investment. Several cases are known in which the success of the brand diversification product lines was such that they equalled or even exceeded the mother products' business contribution or earnings.

Brand diversification also has large-scale down-stream development effects. Successful brand diversification normally goes hand in hand with licensing agreements or joint venture programmes, enabling, for example, SME's to grow organically in international markets. The brand thereby adding value to more parties than before.

An additional business motivation behind brand diversification is the potential for spreading the risk in developing new products which is an important consideration given the high level of failure in launching new products. It has been estimated that over 90% of new products fail commercially.

***Currently to launch a campaign in the EU would require circa 80m ECUs***

The use of an established brand name will substantially reduce consumer communication costs, significantly lessen the investment level required and increase the probability of success. Currently to launch a campaign in the EU would require circa 80m ECUs. The brand not only therefore adds asset value in the present, it can also reduce costs in the future.

In short, brand diversification is a rational and commercial response to the hazards and costs of new product devel-

opment and is based on the exploitation of brand imagery.

### **Conditions for diversification**

These arguments may at first sight appear to be commonplace, but they are based on an important fact which is too easily overlooked. We now live in a world of multiple - perhaps even confusing - choice and the consumer therefore wants the purchasing decision to be made easier.

The main means of achieving this is by making the product stand for something unique and memorable. And in categories where product attributes are similar, then this something will generally be based on psychological rather than functional values.

Because the product has thus been differentiated from its peers, the consumer has a clear perception of what it stands for. This perception is known as "brand image", and as the brand evolves so does the brand image.

Politicians have probably been more aware of the power of branding for many more decades than marketers. An election candidate, for example, varies his speech from constituency to constituency, according to where and how he needs to build support. The specific promises can simultaneously be different and yet consistent, providing that they stem from the same platform.

However, over the past decade the business world has become more alive to the power of brands and of the possibility of using that power in the market place.

But it does have limitations. For a start it is dependent on an accurate analysis of what the brand's expertise and personalities are and how the consumer, rather than the company, sees the brand.

Secondly the brand identity can only be maintained and cared for through con-

tinuous communication with the consumer. Without appropriate consumer communications, the concept of a brand and indeed therefore brand diversification is meaningless and contradictory in itself. Hence there is a direct link between brand, product development and advertising via brand diversification.

### Commercial communication

Ultimately, success will depend on the skill with which the image transfer is effected in the market place itself. It is at this point that commercial communications, and in particular advertising, takes on a central role.

Brand diversification is thus to be distinguished from other marketing activities, such as line extension, brand promotions and indirect advertising. It is a more conventional feature of modern marketing based on the exploitation of brand imagery than regular common marketing activities with which we are more familiar.

With these points in mind, it would be wrong to regard the mother product and the brand diversified product as variations of each other. A restrictive advertising regime applied to the mother product, for whatever reasons, should not be extended to the diversified product. That would only frustrate the exploitation of a valuable asset, the brand, and prevent business from exercising its right to develop products and increase earnings.

It can be argued that legislative measures which restrict brand diversification, offend against the logic of conventional business behaviour. They furthermore highlight an indefensible failure to distinguish between brand diversification ad-

vertising and indirect advertising.

Brand diversification is currently hampered by a number of EU and Member State rules. Sometimes these measures intend to prevent circumvention of legislation, sometimes their goal is protection of cultural identity. Whatever their background, these measures can form a danger for a perfectly genuine business. The Commercial Communications Green Paper should examine these issues carefully. The importance of brand diversification for business, the economy and our very freedom to do business are too important to be tampered with. Not dogma, but practical considerations should rule our judgement.

### Conclusion

Nobody has yet demonstrated that in our increasingly complex society a sustainable, profitable, growing business can be built without the freedom to communicate with the consumer. Advertising offers the most efficient form of commercial communication. In short, advertising is a means to an end, not an end

in itself.

In the Internal Market, the freedom to do business should be protected vigilantly. Free competition should be nurtured. Where that requires advertising then its freedom should be guaranteed. The role of brands should be respected and their value as a business asset understood.

Hopefully, the forthcoming Green Paper will respond to these challenges. If it does, then brand diversification will benefit and the Internal Market will function as intended. The real beneficiaries will, inevitably, be the consumers.

***Brand diversification is to be distinguished from other marketing activities, such as line extension, brand promotions and indirect advertising***

# Commercial Communications-

## The Questionnaire and written Call for Comment

Margot Fröhlinger  
 Head of Unit  
 DG XV/E-5

(DG XV/E-5 is the unit responsible for Media, Commercial Communication and Unfair Competition within The European Commission)

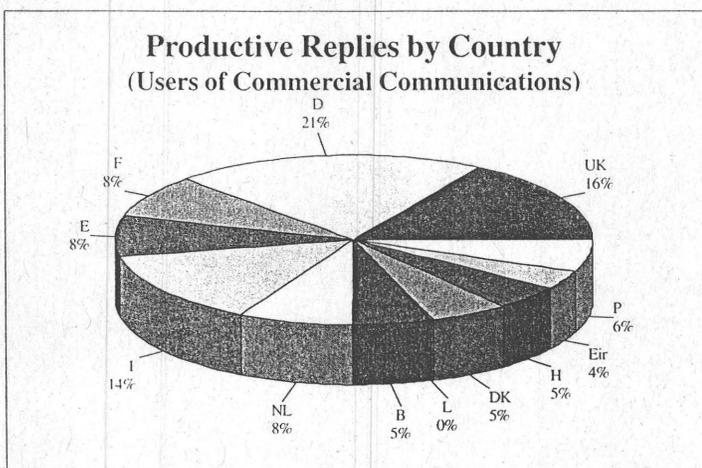
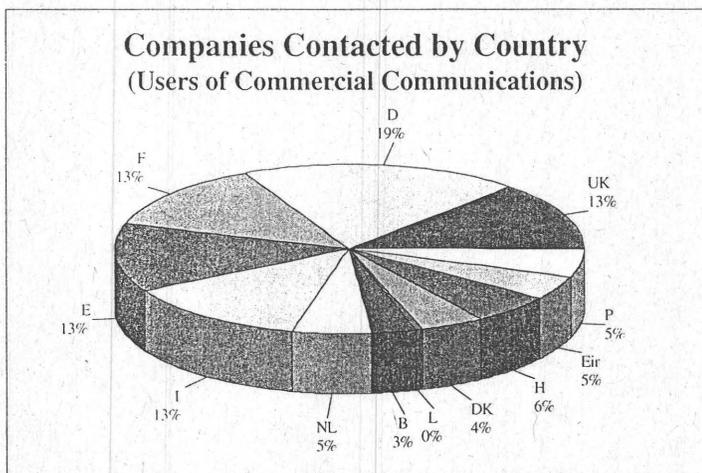
Despite the Green Paper itself being a consultation document, a pre-drafting consultation process was launched to be able to give all the different operators of this very extensive and fragmented market the opportunity to highlight the problems they experience with cross-border commercial communications in the European Union. The exercise gave us the opportunity to make the various parties aware of the Commission's activities in this field, and the results obtained will allow us to understand and respond to the current situation in the market for commercial communications as experienced by the various relevant market agents and interest groups.

The diverse nature of this particular market made a very large-scale inquiry

necessary. During the summer of 1994 a survey was performed in the then nine Community languages by the market research company BMRB International, and in parallel a written "call for comment" was launched on 15 June '94. This "call for comment" was centralised in the unit for "Media, Commercial Communications and Unfair Competition" of DGXV, the Directorate General dealing with Internal Market issues of the European Commission. It sought to collect more detailed information where possible, and to give people who were not within the sample frame of the survey the opportunity to convey their views. The five different groups of interested parties were targeted, i.e., the companies using commercial communications, the commercial communications service providers, the media operators, the self-regulatory bodies and the consumer associations.

The structure of the questionnaire was very similar for both the survey and the written call for comment. The first section inquired about the extent of the company's or association's cross-border activity, and further sections gave respondents the opportunity to identify the various cultural, economic and regulatory problems they encounter when dealing cross-border with the various types of commercial communications in the European Union. Furthermore, there was a question comparing commercial communications operations in the European Union with those in the United States and South-East Asia.

Both questionnaires concluded by asking the respondent about the types of action or information he/she would be expecting from the Commission. The written questionnaires (for a full copy see page 25) contained two additional sections, one on expected future developments in the context of the Information Society, and the other on the problems in



what were at the time the potential new accession countries.

### The Survey

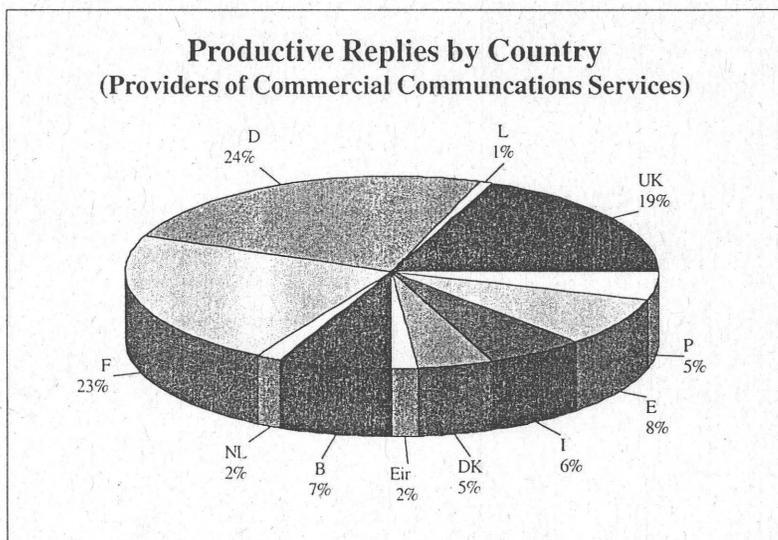
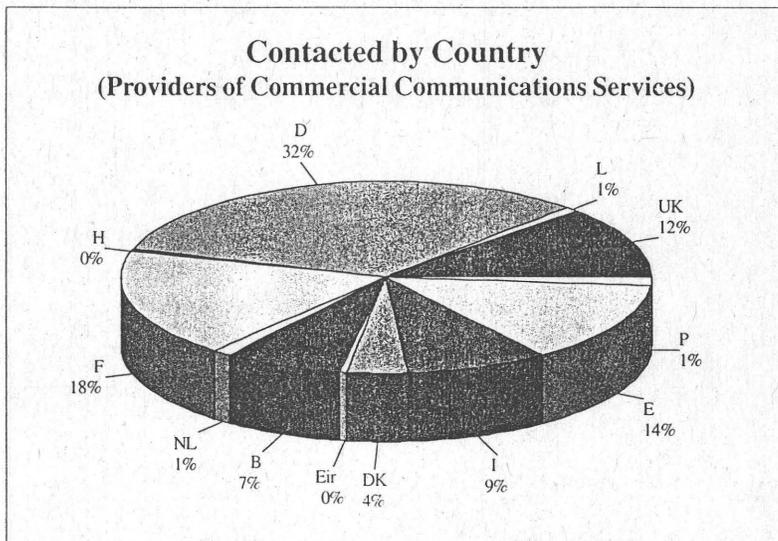
The survey concentrated mainly on the advertisers and agencies groups. Contact samples were drawn up of just over 5,000 advertisers and 500 agencies. To be eligible, the company/agency needed to trade across borders, use commercial communications across borders in the EU, and be responsible for a marketing budget exceeding ECU 120,500. Of the 1,578 companies which proved to be eligible and were thus contacted, 532 provided productive interviews. Of the 221 eligible agencies, 132 resulted in productive interviews. At the time of writing this article, the precise number reached for the other three groups (media operators, self-regulatory authorities and consumer associations) was not yet fixed given that various replies from players in these categories are still being processed.

The pie charts demonstrate the distribution of contacts and productive interviews across the Member States.

### The Postal Call for Comment

In total, 2,785 addresses were reached directly.

In addition to these, a large number of companies and interest groups were reached thanks to the help of the very many associations which took the initiative to transmit the document to their members. This is known with certainty of the following bodies: The World Federation of Advertisers (WFA), the European Advertising Tripartite (EAT), the European Association of Advertising Agencies (EAAA), The Federation for Direct Marketing (FEDIM), The Advertising Association (AA), European Vending Association (EVA), British Promotion Merchandise Association (BPMA), Roularta Media Group, Periodical Publishers Association, The



European Group of Television Advertising (EGTA), the Institute of Sales Promotions (ISP), the Comité Européen pour le Rapprochement de l'Economie et de la Culture (CEREC), the European Advertising Standards Alliance and the Bureau Européen des Consommateurs (BEUC). The Belgian Management and Marketing Association (BMMA) provided DG XV with mailing labels for another 580 questionnaires to be sent to their members. The European Business Press Federation (UPEFE) also co-operated in this way.

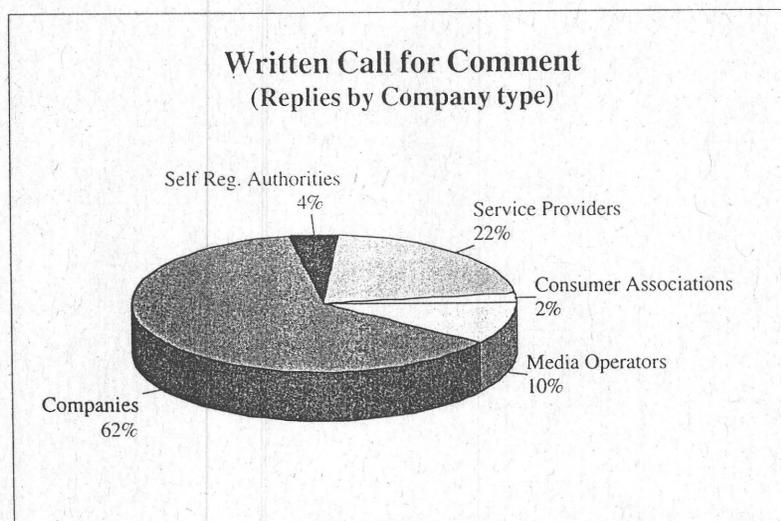
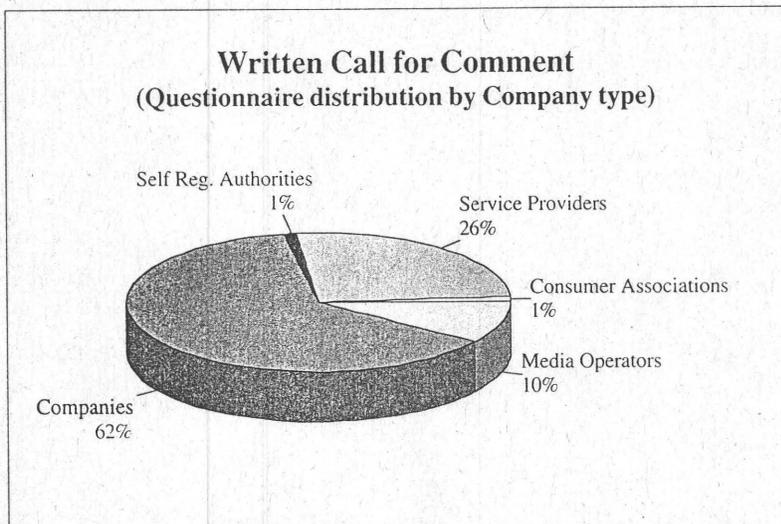
Similar help has been provided by the Chambre de Commerce du Grand-Duché

de Luxembourg which sent the questionnaire to 40 companies in Luxembourg and Maecenata Management GmbH which participated very actively by sending out and following up the replies to 200 questionnaires in Germany.

In total, questionnaires were sent out to economic actors in 44 different countries, the large majority however going to the various Member States.

For the questionnaires sent to companies using commercial communications, a variety of sectors was reached:

- Business promotion agencies, Euro Info centres etc.
- Chemicals, pharmaceuticals, toiletries
- Consultancy, accountancy and legal services
- Food, non-alcoholic beverages, catering
- Transport
- Engineering
- Trade Associations
- Alcoholic beverages
- Parliament and government
- Financial services
- Social services
- Tobacco products
- Distribution
- Communication services
- Toys
- Energy
- Clothing/Textiles/Footware
- Travel services



The response rate for the written questionnaire was approximately 13%.

All the replies are at this moment being analysed and the results will be used extensively in the Green Paper. Preliminary results however already give reasons to believe that in certain areas a true Internal Market for commercial communications has not yet been reached. A detailed analysis of the results will be provided in the next copy of the newsletter.

Meanwhile, DG XV would already wish to thank all those who took the time and effort to participate in this exercise. The information provided is crucial for the development of an appropriate Commission policy in the field of commercial communications. Most respondents indicated the wish to receive a copy of the Green Paper in their reply, and they will therefore be directly involved with the key policy debate that will follow.



## B. Identification of Commercial Communication problems within the European Union

The European Commission is particularly interested in finding out which types of marketing communications need special consideration, or otherwise present difficulties for companies trading in Europe. These difficulties could, for example, be to do with different cultures or customs, there might be legal problems, administrative problems or it might be a matter of cost.

From your experience or general knowledge, which of the countries or types of communication are in some way problematic? Please consider each type of communication in each country, and if you have encountered any problems or believe you would encounter problems please mark the relevant box with an "X".

|             | TV Advertising | Print Advertising | Other Advertising | Direct Marketing | Sponsorship | Sales Promotion | Packaging | Public Relations |
|-------------|----------------|-------------------|-------------------|------------------|-------------|-----------------|-----------|------------------|
| Belgium     |                |                   |                   |                  |             |                 |           |                  |
| Denmark     |                |                   |                   |                  |             |                 |           |                  |
| France      |                |                   |                   |                  |             |                 |           |                  |
| Germany     |                |                   |                   |                  |             |                 |           |                  |
| Greece      |                |                   |                   |                  |             |                 |           |                  |
| Ireland     |                |                   |                   |                  |             |                 |           |                  |
| Italy       |                |                   |                   |                  |             |                 |           |                  |
| Luxembourg  |                |                   |                   |                  |             |                 |           |                  |
| Netherlands |                |                   |                   |                  |             |                 |           |                  |
| Portugal    |                |                   |                   |                  |             |                 |           |                  |
| Spain       |                |                   |                   |                  |             |                 |           |                  |
| UK          |                |                   |                   |                  |             |                 |           |                  |

Given your responses in the grid immediately above, what would you identify as the most serious problems facing your commercial communication strategies in the Internal Market?

Problems or barriers to communication could be considered to be of three kinds:

Cultural i.e. ideas - and expressions from one country which do not work in another.

Economic i.e. when costs and/or availability of particular forms of communication may vary from country to country and so affect media choice.

Regulatory i.e. where rules (including self-regulatory codes) and laws in various Member States prevent some form of commercial communication.

| <b>CULTURAL PROBLEMS</b> | Tick appropriate level | Comments on the nature of these problems, the type of commercial communications they concern and any particular countries where you have experienced them |
|--------------------------|------------------------|---|
| Extremely serious        |                        |   |
| Very serious             |                        |   |
| Quite serious            |                        |   |
| Not particularly serious |                        |   |
| Not at all serious       |                        |   |

| <b>ECONOMIC PROBLEMS</b> | Tick appropriate level | Comments on the nature of these problems, the type of commercial communications they concern and any particular countries where you have experienced them |
|--------------------------|------------------------|---|
| Extremely serious        |                        |   |
| Very serious             |                        |   |
| Quite serious            |                        |   |
| Not particularly serious |                        |   |
| Not at all serious       |                        |   |

For regulatory problems which are obviously the Commission's key concern, please specify precisely:

- for advertising which media (press, TV, radio, outdoor) the regulation applies to and its specific effects
- for direct marketing, sales promotions, PR and packaging the nature of the rule and its precise scope

Where possible respondents are requested to assess the extent to which these problems would have an effect on transborder campaigns or only affect national operations.

| <b>REGULATORY PROBLEMS</b> | Tick appropriate level | Comments on the nature of these problems, the type of commercial communications they concern and any particular countries where you have experienced them |
|----------------------------|------------------------|---|
| Extremely serious          |                        |   |
| Very serious               |                        |   |
| Quite serious              |                        |   |
| Not particularly serious   |                        |   |
| Not at all serious         |                        |   |

**C. Trade and problems with commercial communications in accession countries**

For the future European Union countries listed below, please indicate if you trade or plan to trade with them and which, if any, present problems for commercial communications? Please describe the forms of problems in the same manner as above.  
(For gravity of the problem rank from 1 = Extremely serious to 5 = Not at all serious).

|         | Trade or plan to trade with | Commercial communication problems of a CULTURAL nature | Gravity of the problem (Rank from 1-5) | Comments on the nature of these problems and the type of commercial communications they concern |
|---------|-----------------------------|--|--|---|
| Austria |                             |  |  |   |
| Finland |                             |  |  |   |
| Norway  |                             |  |  |   |
| Sweden  |                             |  |  |   |

|         | Trade or plan to trade with | Commercial communication problems of an ECONOMIC nature | Gravity of the problem (Rank from 1-5) | Comments on the nature of these problems and the type of commercial communications they concern |
|---------|-----------------------------|---|--|---|
| Austria |                             |   |  |   |
| Finland |                             |   |  |   |
| Norway  |                             |   |  |   |
| Sweden  |                             |   |  |   |

|         | Trade or plan to trade with | Commercial communication problems of a REGULATORY nature | Gravity of the problem (Rank from 1-5) | Comments on the nature of these problems and the type of commercial communications they concern |
|---------|-----------------------------|--|--|---|
| Austria |                             |  |  |   |
| Finland |                             |  |  |   |
| Norway  |                             |  |  |   |
| Sweden  |                             |  |  |   |

**D. Future plans**

Over the next five years do you envisage increasing your use of any form of commercial communication in your campaigns within the European Union and if so in which countries?

YES/NO (If yes please list below)

In view of these future plans and the advent of information superhighways , indicate which forms of Internal Market commercial communications you expect to develop/increase over the coming years and what, if any, types of regulatory barriers could affect this development.

|                   | Regulatory Barrier | Description of the regulatory problem |
|-------------------|--------------------|---------------------------------------|
| TV advertising    |                    |                                       |
| Print advertising |                    |                                       |
| Other advertising |                    |                                       |
| Direct marketing  |                    |                                       |
| Sponsorship       |                    |                                       |
| Sales promotions  |                    |                                       |
| Packaging         |                    |                                       |
| Public relations  |                    |                                       |

**E. Comparison with other Trading blocs**

How do you think the case of running any type of campaign in the Internal Market compares with running exactly the same campaign to a similar audience (in terms of size) in North America and South East Asia? Would you say that it is?

|                           | than in the United States of America | than in South East Asia |
|---------------------------|--------------------------------------|-------------------------|
| Much easier               |                                      |                         |
| A little easier           |                                      |                         |
| More or less the same     |                                      |                         |
| A little more difficult   |                                      |                         |
| Much more difficult       |                                      |                         |
| No experience/Do not know |                                      |                         |

**F. Preferred action from the European Commission**

Taking the Internal Market as a whole, what regulatory or deregulatory action do you think the European Commission should take in order to make commercial communication across the Internal Market easier for European companies?

What information could the European Commission provide to your company that would assist you in understanding how the regulations work?

Is there any other assistance or guidance that the European Commission should give to companies such as yours?

**G. Classification**

Thank you for your comments. These will be very helpful to the Commission in preparing its Green paper on commercial communications. This consultative document will be published in the Autumn of 1995. Please fill in your details below and also indicate if you wish to receive a copy of the Green paper and in which language:

Name:.....

Company:.....

Address:.....

Telephone no:.....

Fax no:.....

Position within company:.....

How would you classify your company in the EU country you are working in?

- European Headquarters
- A branch of the European organisation
- A subsidiary of a non-European multinational company
- A totally independent company
  
- Other (specify) .....

Approximately how many people are employed by your company (please tick):

|                  |      |       |       |         |         |       |
|------------------|------|-------|-------|---------|---------|-------|
|                  | 1-19 | 20-49 | 50-99 | 100-499 | 500-999 | 1000+ |
| In your country? |      |       |       |         |         |       |

In the whole of Europe?

What is the main function of your company?.....

Do you wish to receive a copy of the Green Paper? YES/NO

Which language version would you prefer?.....