

## EACA Monthly Newsletter - May 2010

### EU & National News

▶ Advertising

▶ EU



#### European Commission launches consultation on future of cultural and creative industries

The European Commission has launched an online public consultation aimed at "unlocking the potential of Europe's cultural and creative industries". The consultation is linked to a Green Paper which highlights the need to improve access to finance as key to enable the sector to flourish and to contribute to sustainable and inclusive growth.

The cultural and creative sector includes advertising among performing arts, visual arts, cultural heritage, film, television and radio, music, publishing, video games, new media, architecture, design and fashion design. The European Commission reckons this sector employs 5 million people in the European Union.

The public consultation will encourage stakeholders and others to consider questions such as:

- How can the access to funding for small and micro enterprises be facilitated?
- How can the EU help to secure the right mix of creative and managerial skills in these sectors?
- How can innovation and experimentation, including a wider use of information and communication technologies be encouraged?

The public consultation will run until the end of July.

For more information, click [here](#)

Source: *European Commission*

#### Is it EU's role to regulate the sound volume of ads on TV?

MEP Alyn Smith (Greens, UK) sent a written question to the European Commission in which he states that Member States are currently not adequately protecting the consumer regarding the volume of television advertisements.

He put the following questions to the Commission: "What steps will the Commission take to remedy this? Does the Commission agree that excessively loud adverts are a breach of the normal business-to-consumer commercial practices? Will the Commission take steps to harmonise European legislation on this subject?"

In his answer, Commissioner John Dalli, responsible for Health and Consumer Policy, underlined that the question of limiting the sound volume of TV advertising by EU law was discussed during the review of the audiovisual regulatory framework in 2006 and 2007 & he recalled the counter arguments expressed at the time:

- such a provision could be considered to be too detailed and therefore inappropriate for a European Directive;
- such a provision would be technically difficult to enforce, as many programmes themselves have large variations of sound levels;
- advertising blocks are often pre-produced so that, at the time of production, it is not known when and between which programmes they are going to be inserted;
- the human sense of hearing is also different from technical measuring methods.

As a result of this debate, the Audiovisual Media Services Directive adopted at the end of 2007, does not contain a provision on the sound level of advertising.

The Commissioner also stated that the Unfair Commercial Practices Directive does not regulate the sounds or volume thresholds in television advertising. The Directive fully harmonizes the legislation of the Member States in the field of misleading advertising and other unfair commercial practices in the context of business-to-consumers relationships but it does not provide for any safeguards relating to health, safety, taste and decency or other non-economic interests of consumers.

Source: *European Parliament*

#### Perhaps the Belgians Were Right... New Research Shows that Agencies Paid for Pitches are more Successful

Earlier this year, 27 Belgian agencies staged a "strike" to draw attention to the cost of new business pitches and to emphasize the need to be paid for pitches. Now there is new research to demonstrate that there may have been method to what seemed to some like Belgian madness.

Vale International Ltd., a global advertising consulting company with talent and resources in 75+ countries, has just announced results from an extensive analysis of new business practices among independent advertising agencies on six continents. The study, carried out in March 2010 as annual benchmarking data, surveyed 320 offices representing 12,800 employees.

According to Jorg Borgwardt, Managing Partner of Vale International, "One of the most interesting findings is that agencies which insist on being paid for the pitch average a 57.8% success rate. Those that did not ask for a fee had a success rate of slightly fewer than 10%. To the best of our knowledge no other study has uncovered this."

Other Study Highlights Include:

*1. Increased pitching activity*

Despite the 2009 economic situation, agencies on average participated in more pitches in 2009 than in 2008.

*2. Lower budgets and shorter contracts*

Budgets tendered in 2009 were 29% lower, and most agencies reported a sharp increase in requests for project rather than campaign work. A new tendency emerged in pitches: many were initiated to find a lower cost supplier rather than a novel creative concept.

*3. Worsening quality of briefs*

This underscores a short-term client focus and suggests that pitching is becoming a commodity habit.

*4. More agencies fighting for smaller budgets*

In 2009, on average, 6.3 agencies competed for the same prospect; a 24% increase vs. a year ago. More dramatic is the fact that 27% of agencies counted eight or more competitors pitching for the same business.

*5. Agencies are in danger of giving away the shop*

Only 30% of agencies stated they pitch only if paid a fee.

*6. Lack of client feed back*

Three-quarters of agencies said they didn't receive advertiser feed back after pitching. Borgwardt explains: "Clients have difficulty judging more than 3 or 4 presentations; how can they be expected to provide feed back to 8 or more agencies that competed? If chances of quality feed back are low, agencies are better off not to compete."

*7. Increased role of the procurement officer*

In 2009 procurement officers took over making 77% of decisions for agency revenue. Borgwardt raises an interesting issue: "If only 26% of them took part in setting the pitch parameters; how can the others price what they didn't brief? This is a fundamental flaw in the current system of equating ideas and creativity with a pound of nails or a sack of beans."

Norman Vale, Principal of Vale International, suggests that agencies must redefine their new business strategies, get closer to the CEO while also embracing procurement. "The purchasing executive has a fundamental role in any client's business; so don't blame them for making your life difficult; help them understand what you do for a living and how that contributes to corporate value."

Contact: Jorg Borgwardt [jorg@valeinternational.com](mailto:jorg@valeinternational.com) or Norman Vale [norman@valeinternational.com](mailto:norman@valeinternational.com).

Source: *The internationalist*



**WHO endorses strategy to reduce harmful alcohol use**

On 20 May, the World Health Organisation (WHO) endorsed a global strategy to reduce harmful alcohol use. The WHO Report introduces policy options and interventions available for national action and proposes a restrictive approach to alcohol marketing.

The report underlines the need to address the following issues:

*Young People*

- "It is very difficult to target young adult consumers without exposing cohorts of adolescents under the legal age to the same marketing;
- A precautionary approach to protecting young people against marketing techniques should be considered;
- The exposure of children and young people to appealing marketing is of particular concern, as is the targeting of new markets in developing and low- and middle-income countries with a current low prevalence of alcohol consumption or high abstinence rates."

*New advertising techniques*

- "Alcohol is marketed through increasingly sophisticated advertising and promotion techniques, including linking alcohol brands to sports and cultural activities, sponsorships and product placements, and new marketing techniques such as e-mails, SMS and podcasting, social media and other communication techniques."

*Cross-border advertising*

- "The transmission of alcohol marketing messages across national borders and jurisdictions via channels such as satellite television, internet and sponsorship of sports and cultural events has emerged as a serious concern in some countries."

For this area policy options and interventions include:

- (a) setting up regulatory or co-regulatory frameworks, preferably with a legislative basis, and supported when appropriate by self-regulatory measures, for alcohol marketing by:
- (i) regulating the content and the volume of marketing;
  - (ii) regulating direct or indirect marketing in certain or all media;
  - (iii) regulating sponsorship activities that promote alcoholic beverages;
  - (iv) restricting or banning promotions in connection with activities targeting young people;
  - (v) regulating new forms of alcohol marketing techniques, for instance social media;
- (b) development by public agencies or independent bodies of effective systems of surveillance of marketing of alcohol products;
- (c) setting up effective administrative and deterrence systems for infringements on marketing restrictions.

To see the full report, click [here](#)

Source: *World Health Organisation*

### **Brewers of Europe release landmark report on advertising self regulation**

On May 26th, the Brewers of Europe launched a landmark report outlining the results of their commitment to the European Alcohol and Health Forum on advertising self-regulation across Europe. The report, written by the European Advertising Standards Alliance (EASA) has been independently verified by KPMG Sustainability. It shows that progress has been made all over Europe. The Brewers of Europe are now committed to ensuring the ongoing review of advertising self-regulation systems to ensure they keep up to speed with the evolution of societal and cultural demands.

Backing The Brewers of Europe's work, Robert Madelin, Director General, European Commission stated in the report's foreword, "The Brewers have worked consistently and in consultation with the European Advertising Standards Alliance to deliver effective and credible self-regulation with progressively broader European coverage."

Pierre-Olivier Bergeron, Secretary General at The Brewers of Europe: "In 2007, Europe's brewers made a commitment on self-regulation to the EU Alcohol & Health Forum. Today we see that Europe's brewers have kept their promise: this independently-verified report illustrates the unprecedented efforts and substantial progress made by the European brewing sector, to ensure responsible beer advertising across Europe through self-regulation. This confirms our strong belief that advertising self-regulation is a sustainable complement to legislation."

Last week the World Health Organization (WHO) adopted a global strategy to reduce harmful use of alcohol. The Brewers of Europe are happy to see the WHO recognises a role for advertising self-regulation and recognise also that it is their duty in the European brewing sector to show that advertising self-regulation works. In this regard, the report is timely.

#### *Responsible communications*

In 2007, The Brewers of Europe set up a Europe-wide advertising self-regulation initiative to empower national brewing associations across the EU into reviewing and optimising their advertising self-regulation systems.

This initiative was developed under the European Alcohol and Health Forum. The Brewers of Europe are one of the founding members and responsible for one third of the Forum's commitments to action.

#### *Europe-wide initiative*

Europe's brewers already had advertising self-regulation codes in place, but wished to ensure all these were operating within credible and effective advertising self-regulation systems. The setup and the scale of the advertising self-regulation initiative were unprecedented: The Brewers took the European Commission's comprehensive best practice model and developed 7 Operational Standards, for the enhancement of advertising self-regulation systems and responsible beer communications in all the European countries.

The report demonstrates substantial progress made. Some examples:

- Self-regulation systems were set up in countries where they did not exist before;
- 10 countries improved their complaints handling systems through further incorporation of independent elements;
- Consumer awareness of advertising self-regulation systems was increased in 24 out of 27 countries;
- 26 countries have a complaints handling system in place with effective sanctions.

#### *Work in progress*

The report illustrates that substantial progress has been made. Moreover, the effectiveness of self regulation is increasingly recognised by the European Union and other policymaking bodies as an important and valid complementary regulatory option.

But The Brewers of Europe want to go further. They are committed to strengthening the self-regulation in place and adapting it to changing societal and cultural expectations as well as to the evolving media landscape, where online communication and social media are increasingly dominant and require attention.

Summing up today, the Secretary General of The Brewers of Europe said, "The Brewers of Europe are delighted that our approach to date has been validated by EASA (the advertising self-regulation experts), through the assurance statement from KPMG (the independent assurers) and the words of support from Robert Madelin (the regulator)."

Source: *Brewers of Europe*

 EU

**A majority of Europeans support ban on alcohol advertising targeting young people**

The poll analyses the alcohol consumption rates, the citizens' awareness of risks and harms and the support for public policies on alcohol.

#### Alcohol consumption:

- Alcohol consumption in the European Union is at a similar level than four years ago
- 3 out of 4 respondents said they consume alcoholic drinks up to three times a week
- Young people aged 15-24 years are more likely than older age groups to have five or more drinks at a time
- Frequent binge drinking is widespread across the EU

#### Support for public policies on alcohol:

53% think that individuals are responsible enough to protect themselves from alcohol-related harm, 43% say public authorities have to intervene to protect individuals.

As far as advertising issues are concerned; most EU citizens support a ban on alcohol advertising targeting young people and the majority would welcome warning messages both on bottles and on alcohol advertisements.

- 79% of EU citizens support warning on bottles
- 82% of EU citizens support warnings on advertisements

To see the full report, click [here](#)

Source: *European Commission*

#### Data protection



#### **European Commission issues its Digital Agenda**

The European Commission has published its Digital Agenda, the series of aims which will guide its legislating and policy formation activities in the next 10 years.

"We must put the interests of Europe's citizens and businesses at the forefront of the digital revolution and maximise the potential of Information and Communications Technologies (ICTs) to advance job creation, sustainability and social inclusion", said Commission vice president for the digital agenda Neelie Kroes.

"The ambitious strategy set out by the Commission shows clearly where we need to focus our efforts in the years to come. To fully realise the potential of Europe's digital future we need the full commitment of Member States, the ICT sector and other vital economic players."

The Commission's priorities include changing copyright law to make cross-border trade in digital goods and services more widespread. The Commission's plan also includes a proposal to strengthen data protection law to cultivate trust in online services.

"Europeans will not embrace technology they do not trust – they need to feel confident and safe online," said the Commission statement. "A better coordinated European response to cyber-attacks and reinforced rules on personal data protection are part of the solution. Actions could also potentially oblige website operators to inform their users about security breaches affecting their personal data."

#### **EU data protection group says Google, Microsoft and Yahoo! do not comply with data protection rules**

On May 26, the Article 29 Data Protection Working Party, a group of European data protection authorities, told the three major search engine operators – Google, Yahoo! and Microsoft – that their methods of making users' search data anonymous still do not comply with the European Union's Data Protection Directive 95/46/EC.

The Article 29 Working Party recognises the search engines' efforts to bring their policies in line with European data protection legislation. However, in letters sent to the companies, the Working Party urges them to use an outside auditor to verify their commitments to make users' internet search data truly anonymous.

The Working Party, which held its 75th plenary session in Brussels on 10 and 11 May, 2010, sent copies of these letters to the US Federal Trade Commission (FTC) and to Viviane Reding, Vice-President of the European Commission responsible for Justice, Fundamental Rights and Citizenship. In the letter to the FTC, the Working Party asks it to examine the compatibility of search engine practices with section five of the Federal Trade Commission Act, which prohibits unfair or deceptive practices.

The letters follow the Working Party's call for the companies to cut to six months the period during which they store search data before it is made anonymous including IP addresses.

In response to the Article 29 Working Party's call Google vowed to anonymise IP addresses in its server logs after nine months by deleting the last octet of the IP address. The Working Party says that deleting the last octet "does not prevent identifiability of data subjects".

It also criticized Google for only anonymising cookies in its search engine logs after 18 months. "This would allow for the correlation of individual search queries for a considerable length of time," says the letter to CEO Eric Schmidt. "It also appears to allow for easy retrieval of IP-addresses, every time a user makes a new query within those 18 months."

The letters are available [here](#)

Source: *Article 29 Working Party*

### European data protection group faults Facebook for privacy setting change

On May 12, the Article 29 Working Party told Facebook in a letter that it is unacceptable that the company fundamentally changed the default settings on its social-networking platform to the detriment of users.

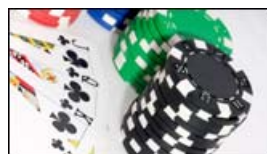
The Article 29 Working Party sent letters to 20 social network operators that have signed the "Safer Networking Principles for the EU. The Working Party emphasised the need for a default setting in which access to the profile information and information about the connections of a user is limited to self-selected contacts. Any further access, such as by search engines, should be an explicit choice of the user.

The letters also address the issue of third-party applications. They state that providers of social network services should grant users a maximum of control about which profile data can be accessed by a third party application on a case-by-case basis. The

Article 29 Working Party also raised the issue of data of third persons contained in users' profiles and underlines that providers of social networking sites should be aware that it would be a breach of data protection law if they use personal data of other individuals contained in a user profile for commercial purposes if these other individuals have not given their free and unambiguous consent.

Source: Article 29 Working Party

### Gambling



#### Spanish presidency issues progress report on gambling

Following discussions on possible coordinated actions against illegal gambling in the EU, the Spanish Presidency has issued a progress report which includes replies from Member States to the following questions:

- Is the media regulated when it comes to broadcasting advertising on behalf of unauthorized gambling operators? If so, what kinds of measures are applied? What is the competent authority in the different media, television, press and so on?
- Is your country developing any kind of action to protect sports competitions against unauthorized commercial exploitation? What body or bodies are responsible for their control and, if applicable, sanction? Is the advertising or sponsoring of the organization of sports events from unauthorized sports betting operators allowed?

Member States' replies are available at <http://register.consilium.europa.eu/pdf/en/10/st09/st09495.en10.pdf>.

The report concludes that Member States agree that advertising and sponsorship can only be made by legal operators. However it points out that Member States might want to consider the case in which advertising or sponsoring of legal operators has effects on another Member State different from the one which has granted the license (for example the sponsorship of a football team that occasionally plays in other Member States where the operator has no license). In these cases, the Presidency deems it useful to develop public information campaigns or take other alternative measures in order to restrict the access to these gambling operators, notwithstanding that Member States according to their national law could always forbid this kind of sponsoring.

### Obesity

#### Global



#### WHO adopts Recommendations on Food Marketing to Children

On 20 of May, the World Health Assembly (WHA) adopted the World Health Organisation Recommendations on food marketing to children.

The WHO Recommendations will serve as guidance to Governments worldwide for the development of national policies on food marketing to children. The adoption of the Recommendations is likely to increase focus on the issue in a number of markets worldwide.

The key points are the following:

- Member states are given the objective of **reducing the impact on children of marketing of high fat, salt and sugar (HFSS) foods both in qualitative and quantitative ways** ("power" and "exposure")
- Governments need **clear definitions** for "high fat/sugar/salt" (HFSS) foods, the age of a child, communications channels, etc.
- Member states are presented with a **menu of options** for how they should achieve this objective. **Regulatory and self-regulatory/voluntary approaches** are envisaged.
- Governments should take the lead in setting policy but are encouraged to **engage with other stakeholders** (while bearing in mind potential "*conflicts of interest*"). Multi-stakeholder platforms are advocated for implementation, monitoring and evaluation of policy.
- "**Settings where children gather**" should be free from all HFSS food marketing.
- Companies are encouraged to adopt **marketing policies** that achieve the aforementioned objective and practice them globally.
- Monitoring and enforcement mechanisms** are essential as well as a mechanism by which the impact of the policy can be evaluated.

Alongside the Recommendations, the WHA also urges Member States to:

- Take the necessary measures to implement the recommendations on the marketing of foods and non-alcoholic beverages to children;
- Establish a system for monitoring and evaluating the implementation of the recommendations on the marketing of foods and non-alcoholic beverages to children;
- Take active steps to establish intergovernmental collaboration in order to reduce the impact of cross-border marketing;
- Cooperate with civil society and with public and private stakeholders in implementing the set of

recommendations to reduce the impact of marketing of foods and non-alcoholic beverages to children, while ensuring avoidance of potential conflicts of interest;

To see the full text of recommendations, please click [here](#)

Source: RAC

 Tobacco



#### World No Tobacco Day 2010 focuses on marketing to women

In observance of World No Tobacco Day 2010, the World Health Organization (WHO) is urging global action to protect women and girls against "the sickness and suffering caused by tobacco use".

This year's campaign theme focuses on the harmful effects of tobacco marketing towards women and girls. It also highlights the need for governments to ban all tobacco advertising, promotion and sponsorship and to eliminate tobacco smoke in all public and work places as provided in the WHO Framework Convention on Tobacco Control.

Although many more men use tobacco than women (women make up only about 20% of the world's smokers), there is evidence that tobacco use among girls is increasing in some countries and regions.

In half of the 151 countries recently surveyed for trends in tobacco use among young people, approximately as many girls used tobacco as boys. More girls used tobacco than boys in some of the countries, including Bulgaria, Chile, Colombia, Cook Islands, Croatia, Czech Republic, Mexico, New Zealand, Nigeria and Uruguay.

"We know that tobacco advertising increasingly targets girls," said WHO Assistant Director-General for Noncommunicable Diseases and Mental Health Dr Ala Alwan. "This campaign calls attention to the tobacco industry's attempts to market its deadly products by associating tobacco use with beauty and liberation."

WHO calls on governments and the public to demand a ban on all forms of tobacco advertising, promotion and sponsorship; to support implementation and strong enforcement of legislation to provide 100% protection from tobacco smoke in all public and work places; and to take global action to advocate for women's freedom from tobacco.

Source: WHO

#### European Commission reaffirms its commitment to fight against smoking

For example, three in every four Europeans supports picture health warnings on tobacco packs and smoke free restaurants. The survey also shows, however, that nearly one in every three Europeans still smokes, despite the fact that tobacco kills half of its users.

The Commission is planning to launch an open consultation shortly with a view to revising the 2001 Tobacco Products Directive and is stepping up its tobacco control efforts throughout the EU.

The Commission is currently reviewing this Directive to provide a higher level of health protection and to update it to new developments as regards ingredients and national legislations. For example, giving consumers more information and making tobacco products less attractive, in particular to young people. The Commission plans to put forward a revised proposed Directive in the second half of 2011.

John Dalli, Commissioner for Health and Consumer Policy said: "Tobacco kills 650,000 Europeans every year, and many lives could be saved from reducing tobacco consumption. I am particularly concerned about smoking rates amongst young people: Europe cannot passively watch future generations smoke away their health!"

The commissioner added: "I am determined to do everything in my power to reduce tobacco consumption across Europe via the upcoming revision of existing legislation on tobacco products and consider measures that can contribute to a clear and effective set of rules to support Europeans' health."

Source: European Commission