



ENPA response to the Television without Frontiers Issues Paper on Commercial Communications

ENPA is a non-profit organisation of 5100 titles from 24 European countries (plus one observer member), representing the interests of newspaper publishers to the European Institutions. More than 120 million copies of newspapers are sold each day and read by over 235 million people in Europe.

ENPA is glad to have the chance to respond to the Issues Papers on the Television without Frontiers Directive 89/552/EEC). We have replied separately in August 2005 to the Commission questionnaire inquiring about the potential economic impact of this Directive on newspapers. We hope that the Commission services will take all of ENPA's responses collectively into consideration (also in consideration of our letter of 10 May 2005 on the subject of commercial communications in this Directive) when managing the draft final text for the revised Directive).

ENPA notes that the Commission has asked ENPA through a separately presented list of questions to provide an economic impact analysis which will form part of the Commission's own Extended Impact Analysis to demonstrate which aspects of a revised Directive would have a serious impact over the next 5 years onwards.

EXECUTIVE SUMMARY

Why are newspaper publishers concerned by this section of the Directive?

It is essential that newspapers' voice is heard during this consultation on the audiovisual commercial communications' issue paper, although some parties may ask why newspaper publishers are worried when the Directive is not meant to cover them. It is true that newspapers do not wish to be included in the scope of any revised Television without Frontiers Directive as we have outlined in our response to the "scope" Issue Paper, so why the interest in audiovisual communications? Simply put, the newspaper publishers in Europe are exposed to increasing pressure from advertisers asking them to weaken the separation of advertising and editorial principle to allow product mentions in articles or avoid bad reports of the advertiser company which advertises in that newspaper; all this at the ultimatum of the advertiser pulling all of their advertising and moving to other media, notably broadcast.

The separation principle, which is also a widely accepted media industry norm until present, therefore needs to be maintained for audiovisual content, to prevent even higher manipulation by advertisers as seen in the USA. The Directive must leave it to Member States to decide about product placement – in particular Member States must be free to apply stricter rules or bans on their territory to protect editorial integrity. The advertising hourly limits should also all apply to all advertising, including "other forms of advertising" such as Telepromotions and new techniques in order that the reasonable proportion of advertising to editorial is maintained.

I – RULES COMMON TO ALL AUDIOVISUAL COMMUNICATIONS

Section 1, ISSUE 1: The concept of audiovisual commercial communications

- 1.1. ENPA queries the Commission's assertion in the paper on page 2 of the English version that most experts consulted were in favour of technologically neutral rules as interpreted by the Court of Justice in its Mediakabel judgment (C-89/04), given that the judgment was given on 2 June 2005 and the expert meetings took place before that judgment was issued.
- 1.2. **“Audiovisual commercial communications”:** ENPA supports relying on the e-commerce Directive definition (2000/31/EC) in the first place (as in Article 1(f)) to define commercial communications. Any exclusively editorial content should be excluded from regulation under these terms.
- 1.3. **Surreptitious advertising: Advertising techniques based only on vague identification principles are realistically insufficient to protect the public from surreptitious advertising.**
Example: Identification at the beginning of the programme is not enough to alert the consumer, whilst the simultaneous or “real-time” notification to the viewer of product placement through “pop-up” or similar is often quoted as being “too much” and deters the viewer. Therefore, the choice should be clearly stated in the Directive that it should be left to individual Member States not to the European Institutions, whether they ban product placement, where they deem it appropriate in appreciation of the separation of advertising and editorial principle.
- 1.4. **ENPA calls on the Commission to keep the definition of “surreptitious advertising” as it exists in the current Directive.** ENPA sees no reason for the Commission to justify deleting the original reference, “Such representation is considered to be intentional in particular if it is done in return for payment or for similar consideration”, as this deletion removes the legal certainty for operators. ENPA is alarmed at the replacement of this deleted sentence in the Commission's Issue Paper by, “Such representation is not considered to be surreptitious advertising if the public is informed of its existence in any way”. ENPA considers this replacement as insufficient to guarantee the clear and immediate information of the public as to the specific whereabouts of the advertisement such as a product placement in the editorial content of the programme. This type of notice introduced in the Commission's Issues Paper would also permit a simple alert to the consumer at the beginning of a programme for example that a product has been placed within the editorial, which ENPA deems as insufficient information to the consumer. ENPA equates this liberal approach by the Commission to the situation whereby a newspaper would only need to mention on its front page that “this newspaper contains paid-for adverts for products,” which is editorially unacceptable.

Section 1, ISSUE 2: Rules on human dignity and the protection of minors

- 2.1 ENPA considers that the rules on human dignity and the protection of minors in Articles 12 and 16 of the current Television Without Frontiers Directive are sufficient to combat any harmful content and that this should continue to be subject to national rules which

may provide a higher level of protection if necessary and which may take into account existing self-regulatory framework systems. This approach, where detail is provided for at national level, could also apply to all audiovisual commercial communications, both linear and non-linear.

- 2.2 ENPA notes that the Commission Issue Paper highlights that sponsorship slogans are not covered by these rules. Again, ENPA does not oppose the status quo being applied to both linear and non-linear services, but again ensuring the detail is left to national level traditions where the perceptions of what is suitable limits to respect for human dignity.

Section 1, ISSUE 3: Rules relating to public health considerations (tobacco, alcohol, medicines)

- 3.1 ENPA concurs with the point of view of the advertisers and advertising agencies whereby the audiovisual commercial communications on-demand require less consumer protection because the information is not simply “spoon-fed” to the viewer.
- 3.2 ENPA does not agree with the Commission’s claim in its Issue Paper that there was a broad consensus that current rules on tobacco products and alcohol should be fully applied in an identical manner to all audiovisual services, whether or not linear. ENPA refers the Commission to our response to the “rules applicable to audiovisual content” Issues Paper, where we called for the exclusion of newspapers’ online and new media services from the scope of this Directive, because of the multiple legal instruments in application which would impede publishers’ legal certainty.
- 3.3 ENPA moreover supports the principle of the freedom of commercial expression on the Internet, although we accept that the industry stakeholders should act responsibly. Whilst provisions on alcohol and tobacco currently exist for linear services, ENPA believes that the Commission should first take into account the industry commitments to self-regulation of advertising. ENPA highlights that the advertising industry is working hard through the European Advertising Standards’ Alliance (EASA) to achieve the necessary level of protection against harmful adverts for alcoholic and other products.
- 3.4 Regarding communications concerning pharmaceutical products, ENPA would support a move to authorise the advertising of pharmaceutical products through self-regulation in advertising methods other than those which do not respect the separation of advertising and editorial principle, although one might already ask what the definition of “objective information” would be which has been laid down as a possible precondition.

Section 1, ISSUE 4: Identification of commercial communications in general, including sponsored spots:

ENPA rejects the Commission’s observation in the Issues Paper that the print media companies are only concerned that the liberalisation of advertising, particularly product placement will transfer revenue away from the press. ENPA wishes to explain its further concerns below:

- 4.1 ENPA highlights that the Commission’s Issues Paper rightly points out that the Directive currently contains a number of basic and qualitative rules applicable to advertising and shopping. ENPA considers that there are two aspects of the existing Television without

Frontiers Directive which are fundamental to the effective protection of liberal democracy. These are currently both included in Article 10, §1 of the Television without Frontiers Directive: the ability for viewers to distinguish (identify) the advertising from the editorial and the rule requiring separation of advertising and editorial content.

4.2 The most important of these qualitative rules is the principle of separation between advertising and editorial content as contained in Article 10, §1. We stress that this principle is still as relevant as ever in a time when we are spoilt for choice with a wide variety of advertising techniques, from programme sponsorship to spot advertising and from virtual advertising to split-screen advertising. We therefore think it is unjustified, in view of so many different types of advertising technique now existing, that the broadcasting sector says that it has no other choice than to ask the Commission to permit product placement otherwise it will not be able to maintain its competitive place on the media landscape. In fact, industry reports¹ have already indicated that the losses to television might not be so great after all through the introduction of Personal Video Recorders integral in services such as Sky+ which eliminate the spot advertising breaks.

4.3 ENPA is pleased that several stakeholders involved in the revision discussions agree that the identification of advertising content is essential, although this does not go far enough. The principle of separation of advertising and editorial content must accompany this identification. The European public broadcasters as recently as in their submission² on TVWF of 15 July 2003 agreed that “a set of fundamental principles, including precise identification of advertising and sponsorship and the separation thereof from the programme content, should be applied to all forms of traditional and new commercial communications.” ENPA furthermore notes how the commercial broadcasters, amongst others, have already expressed their commitment at hearings and in position papers³ in favour of maintaining transparency towards their viewers. They understand that this is necessary to avoid viewer irritation with advertising through clear identification of advertising content, which, if left unidentified, would unfairly dupe the viewer into thinking that it was editorial content, and not the result of an agreement between advertiser and content provider.

4.4 The maintenance of the identification principle alone is impractical in real terms and the USA’s current problems highlight this.

ENPA does not think that the practicalities of only requiring identification of advertising content have been realistically thought through by the Commission where the patience of consumers with regard to advertising identification techniques is concerned.

ENPA thinks that the Commission’s intention to simply require identification but not separation of advertising content may not promote the future public confidence in regulation of television advertising. We take the recent events in the USA as an example. The Federal Communications’ Commission (FCC) July 2005 investigation in the United

¹ E.g. Recent research by Starcom http://www.starcomww.com/docs/starcom_job_1115285785343.pdf OR (Media Bulletin) <http://www.brandrepublic.com/bulletins/media/article/488227/ad-skipping-technology-not-major-threat-tv-advertising/>

² Page 3, EBU Contribution TV Without Frontiers Directive 15.07.2003
http://www.europa.eu.int/comm/avpolicy/regul/review-twtf2003/wc_ebu_en.pdf

³ Commission hearings on the study of the impact of advertising provisions in the study of advertising, January 2005. Also: ACTE factsheet January 2005 :
http://www.acte.be/attachments/module_news/48_1_0502%20factsheet%20TVWF%20EN.pdf

States of America into “payola”⁴ services following concerning evidence that the music industry was not meeting its obligations in identifying paid-for music playlist product placements is something that the Commission should consider in the debate on distortion of free speech. Commissioner Adelstein has commented: “Not only are celebrity chefs and celebrity fashion up for sale but, most ominously, news shows are increasingly up for bid.”⁵ The ban on undisclosed “payola” dating from the Communications Act of 1934 has allowed an investigation to actually take place into this form of product placement, based on calls from within the music industry which widely found itself to be suffering from new forms of this technique. ENPA asks why the rules have been broken in the first place.

In fact, statements from the FCC⁶ in the last six months also reveal that their concern has been ongoing for some time about the state of public confidence in the audiovisual media which has led to a general loss of integrity, as the advertising industry has tried to push the limits of what is acceptable according to the law, especially with the commercialisation of television shows. Although the FCC has ruled that “listeners and viewers are entitled to know who seeks to persuade them with the programming over broadcast stations and cable systems”⁷ the Commissioner reports that “the use of covert commercial pitches is penetrating deeper and deeper into our media”. One can draw parallels from the USA situation with a similar crisis that could arise in Europe, if national interpretations of the Commission-proposed lone identification principle in the revised Television without Frontiers Directive vary widely. ENPA reiterates that the Member States should be allowed to decide about the product placement technique, rather than pressing ahead with an EU wide liberalisation, but the Directive should also specifically ensure separation of advertising and editorial content in the audiovisual environment.

4.5 Current broadcast practice prevents identification being seen by consumer

If product placement were to be allowed, the Commission has made no mention in its paper of how it would ensure that the programme makers would be obliged to show the notice at the beginning or end of a programme alerting the viewer to the presence of product placement. According to what the Commission is proposing, there are no concrete rules for the presentation of the product placement alert (not even mentioned by audio or visual means).

Many broadcasters today physically “concertina” the closing credits or opening sequence into a small section of the screen, rendering them unreadable, in order to present some other programme scheduling information. Viewers also often do not pay close attention to closing and opening credits because it is the actual programme content which interests them. ENPA therefore asks how the Commission intends to guarantee that the consumer will receive the information that a product placement has been used at the beginning or end of the programme.

In the case of legalising product placement, broadcasters would be obliged, in order to meet their commitment to providing clear identification of advertising content, (just like

⁴ A 1960 federal law and related state laws prevent record companies from offering undisclosed financial incentives in exchange for airplay. The practice is named “payola,” formed out of the words “pay” and “Victrola” - an old wind-up record player. The Communications Act of 1934 also requires announcement of paid-for or similar considered-for material.

⁵ Page 4, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-258962A1.doc

⁶ http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-260158A1.doc

and page 1: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-258962A1.doc

⁷ FCC Public Notice 05-84, supra note 5.

any other media such as newspapers fairly do at present) to provide visual (or audio) notification to the viewer simultaneously with the showing of the editorial scene containing the product. So, for example if a TV star during a programme is shown drinking a branded cola drink and that cola manufacturer has paid for or provided alternative compensation for the appearance of that cola drink with that particular TV star in that particular scene, ENPA believes that the advertising identification notice would surely have to appear simultaneously (otherwise known as “real-time”) to the appearance of the product being consumed by the star, to match the fair practice exercised by other media at present in informing the consumer. In light of this, if broadcasters disregard this real-time notification technique by favouring advertisement identification techniques placed at the beginning or end of a programme which could easily be missed by the viewer, then ENPA considers that the broadcasters are going against their commitments to identification of commercial communication which they have claimed strict allegiance to up to present. However, as highlighted above, if the consumer gets quickly irritated by real-time notification, then this creates a situation whereby there is no simple way to guarantee consumer information for product placement.

4.6 Journalistic codes across the EU require the separation of advertising and editorial content

ENPA moreover calls on the Commission to consider the vast array of national level journalistic editorial codes⁸ and numerous integral provisions of existing national law which would have to be painstakingly debated and amended, were product placement to be legalised. A list of the sheer number of different provisions in many Member States which would have to be changed was provided to the Commission in ENPA’s dossier in June 2005, but we annex this again for reference.

4.7 There is no guarantee that European production would significantly benefit from product placement

ENPA also doubts that the funding derived from product placement would give more impetus to the European production companies to produce programmes, which could induce better EU programme production against the current high levels of foreign (USA) imported production, as has been argued up to present by the Commission. This is because advertisers have to be convinced of the success of each programme. Moreover, even if product placement were to be a success, research has yet to be done - even in the USA - to measure how much product placement a viewer can withstand in an hour. No universal industry standards currently exist to knowledge and therefore this may have concerning impacts for the public and wider media.

4.8 Separation of content: Broadcasters should follow newspapers’ good example

ENPA moreover argues that if vaguer or more “liberal” advertising rules are introduced, broadcasters, through pressure by advertisers might continually try to test the limits of what is acceptable in terms of frequency and perceptibility of advertising with their viewers, and this will undoubtedly have a similar impact on the way the other media are approached by advertisers too. Such pressure is already evident in some past publicised examples⁹, but publishers are fearful of the consequences of further pressure created by a

⁸ <http://www.ifj-europe.org/default.asp?issue=mainresult&subj=EFJm&Language=EN&sort=title> and a joint text for 6 countries: <http://www.agjpb.be/agjpbnew/telechargements/droitsdevoirs.doc>

⁹ Examples: eg1) March 2005. Daily Mail Newspaper in the UK published an article criticising Marks and Spencer’s management, a result of which Marks and Spencer removed all its advertising from Daily Mail group (DMGT) newspapers. Source: Brand Republic, by Daniel Farey-Jones, 3 Mar 2005. www.brandrepublic.com or

liberalisation of the separation principle. Therefore, ENPA believes, that it is within our duty representing another media to call on the European Commission to maintain the rules of separation of editorial content, in addition to the rules on identification. If advertisers legally may purchase parts or elements of the televisual editorial content, under the condition that the advertiser is recognizable, the chances of all media to keep its editorial independent will diminish all the same.

Newspaper publishers have for years ensured that their own advertising and editorial content is clearly separated and identified, so as to ensure the reader is not misled as to what is advertising content when reading the newspaper and to guarantee the medium's credibility. Whilst newspaper publishers do not oppose the sponsorship of editorial content¹⁰ or the use of advertorials if properly identified, newspaper publishers try to reject pressure from advertisers who believe that they have the right to write editorial content with liberally inserted but unidentified product plugs if compensation is provided, because publishers know that they will lose readers if they don't maintain their editorial standards. This is supported by a recent quote from a former UK national newspaper Editor, Roy Greenslade: "But the catch is that the credibility exists because the editorial content of papers is viewed by readers as commercially neutral. If that sense of impartiality is lost, then the benefit to the advertiser is destroyed along with the newspaper itself, a classic case of a parasite killing off its host."¹¹ Newspapers believe that for the reasons above, it would also be in the best interests of broadcasters' editorial integrity and pursuit of maintaining audience viewing figures to follow suit of publishers.

4.9 Member States currently banning product placement should be able to continue to do so and encouraged with other techniques adhering to the separation principle

The issue that some programmes are already broadcast with product placement because they are produced by companies over which EU-governed broadcasters have no jurisdiction must be urgently addressed. However, it would a serious mistake indeed to liberalise the product placement technique in an attempt to solve this problem.

The current situation, which leaves it up to Member States to decide if product placement is prohibited on their territory, is insufficient as it has been well publicised at the European level that product placement is slipping into programmes imported from outside the EU and the commercial messages contained in these programmes are officially unidentified. Some Member States have actively chosen to ban product placement because of the principles of advertising and editorial separation which they seek to protect and they should be within their rights to be able to continue to do this. ENPA would like to see the encouragement of European producers to actively contribute to EU cultural diversity

eg2) After the "Süddeutsche Zeitung" had published a critical report about the Bavarian markets of the biggest German discounter "Aldi", the latter decided not to advertise in the Bavarian edition of that newspaper anymore, which caused a loss of profit amounting to 1.5 Mio Euro. These are just two illustrative examples.

¹⁰ Only where it is properly identified and where the sponsor name or products are not integrated into the editorial content.

¹¹ Text, The Guardian, 13 September 2004, Roy Greenslade : « In recent years it has become obvious that ad agencies and their clients have moved way beyond the idea of paying only for display ads, believing that acting as sponsors for editorial material pays greater dividends. Brands like to be associated with newspapers for the obvious reason that it lends credibility to their products. But the catch is that the credibility exists because the editorial content of papers is viewed by readers as commercially neutral. If that sense of impartiality is lost, then the benefit to the advertiser is destroyed along with the newspaper itself, a classic case of a parasite killing off its host."

by producing more home-grown EU programme content funded by advertisement techniques which respect the separation of advertising and editorial principle.

ENPA is aware that EU broadcasters do not receive payment for these product placement references and often are not told if a programme contains product placement: ENPA thinks that this problem of communication should be tackled by the Commission.

ENPA also thinks that other new forms of advertising technique should be optimised that respect the separation principle. For example, in Germany, the split-screen technique is used, but it is reported that it is not used as much as it could be.

4.10 International Chamber of Commerce codes support readily recognisable advertising content

ENPA also brings to the attention of the Commission the existing rules and principles contained in the International Chamber of Commerce's International Code of Conduct on Advertising Practice, which in Article One states that: "No advertisement should be such as to impair public confidence in advertising." ENPA believes that the specific legalisation of product placement for television in Europe may damage the public's confidence in advertising and this would cause knock-on effects for the faith of the public towards advertising in other media as well. Furthermore, in article 12 of the ICC International Code of Conduct on Advertising Practice, it states that all advertisement which appears with editorial matter "should be so presented that it will be READILY recognized as an advertisement." ENPA believes that this indicates that the advertised product should be clearly distinct from the audiovisual editorial material or at least the product would have to be identified simultaneously with its appearance in the editorial to meet these rules, which, as we discussed above, would cause audience discomfort. Existing rules at both ICC level and Member State national law level should be respected.

Section 1, ISSUE 5: Identification of Sponsored content in particular

5.1 ENPA would like to see legal certainty applied in the Directive, that all advertising and sponsorship promoting a third party product falls under the identification principle and should moreover be counted under the advertising hourly duration principle. Under no circumstances should the sponsor influence the editorial content. We refer as follows to our response to the Council of Europe consultation of December 2004 on the update of the European Convention on Transfrontier Television December 2004 which asked the same question on "identification":

"ENPA notes the difficulty that the Standing Committee has had in identifying a suitable distinction between the simple presentation of a sponsor's product and the encouragement of sale of that product. If a publisher for example provides money to sponsor a programme, s/he would expect to have the newspaper's name and logo inserted in the appropriate place. It is not worthwhile for a company to sponsor a programme if the consumer cannot distinguish the brand from another which has a similar name for example due to the fact that the sponsors' name(s) have been "formatted". We therefore could not support the formatting of all sponsors' name(s) to a "uniform" style. Regarding paragraph 10, publishers, just like any other sponsor should be able to have the title of their product as well as the logo shown if they are a sponsor of a programme. This privilege is, to our knowledge, granted to other sponsors. Publishers should not be subject

to any greater restrictions than other sponsors. ENPA considers that showing a publisher's publication title in this capacity is not understood as directly promoting that title's sale."

Section 1, ISSUE 6: Application of the rules

6.1 ENPA supports the idea that self-regulation for provisions on public health, the protection of minors and others are supported. We have our doubts about co-regulation as self-regulation should always be sufficient where it has been proved to be effective. ENPA is confident that this is proved in Europe at present. ENPA considers that a control mechanism comparable to that put in place by the Commission to verify the Member States' application of the rules is overly bureaucratic.

II - ISSUE 1: Quantative rules on television advertising:

1.1 Maintain advertising duration restrictions for all forms of advertising

Please see our suggestion for amendment below in *Italic type*. We first of all highlight that there is not much sense to limit "on-demand" services in nonlinear and particularly online "on-demand" content. The distinction between "spots" and "other forms of advertisement" is very dangerous because "spots" are subjected as much to daily duration limits as to hourly duration limits, whereas "other forms of advertisement" are subject only to daily limits. We recognise that these daily limits are in fact ineffective, given that during certain hours of the middle of the night, there is no or very little advertising and this lowers the average amount of advertising per day which permits broadcasting stations to insert much more advertising into "prime time" slots.

1.2 Maintain principles to respect interests of television viewers

All of the limits of duration of advertising were foreseen to avoid too much advertising within programmes in order to safeguard the role of television and the interests of television viewers. To subject certain forms of "other advertising" such as telepromotions only to the daily amount of advertising would mean that the objectives outlined above in this paragraph have been set in vain, hence the amendment above is proposed by ENPA to ensure hourly limits for duration of televised advertising.

1.3 Leaving regulation of advertising perception to the viewer is unrealistic

Concerning linear programming, ENPA rejects the assertion by some stakeholders that the consumer's ability to simply switch channel will regulate the amount of advertising that broadcasters attract. The purpose of the limit is, to ENPA's understanding, to maintain a reasonable balance between advertising and editorial content in the linear audiovisual environment and also undoubtedly helps optimise TV viewing by reducing viewer frustration over what they can't control. It is therefore essential to keep the principle of hourly duration of advertising.

1.4 New advertising techniques to be subject to duration limitations

ENPA also believes that other new advertising techniques (split-screen, virtual techniques, new sponsoring methods, e.g. sponsoring of advertisement notification messages) should be strictly subject to the duration limitations for advertising where it is physically possible to calculate this. Moreover, any new advertising technique should be subject to immediately recognisable notification to the consumer indicating what is advertising and what is editorial.

1.5 Continuing advertising hourly regulation makes sense for the preservation of broadcasting

ENPA believes that larger broadcasters would be the only ones to benefit if the advertising hourly restrictions were abolished. The smaller broadcasters benefit from the hourly limitations imposed on broadcasting because the amount of advertising that the larger broadcasters can take is controlled. This is also a reason why no other media pluralism rules need be introduced into Television without Frontiers' Directive, because suitable market controls already exist within the current Directive.

1.6 ENPA proposal for a new provision in the Directive

ENPA believes that regulating the number of breaks per hour will still unreasonably damage the viewer's patience with advertising if the duration of these breaks per hour is left unlimited. Therefore, we suggest introducing a more reasonable compromise on the number of breaks per hour accompanied by an advertising hourly duration limit:

⇒ *ENPA also wishes to make a proposal for amendment to Article 18, §2 of the Television Without Frontiers Directive:*

"The proportion of advertising spots and other forms of advertising including telepromotions and teleshopping spots within a given clock hour shall not exceed 20%."

ISSUE 2: Hourly and daily limits applied to teleshopping

ENPA does not find it necessary to comment on this discussion point.

ISSUE 3: Insertion of advertising

3.1 ENPA highlights that the current provisions in the Directive that rule that the integrity and value of the programme must be protected and not compromised. This is relevant, in whichever way the audiovisual product has been delivered.

3.2 ENPA has particular issues with "telepromotions" which currently fall under the definition of "other forms of advertising". Telepromotions are unique in the way that they are not necessarily distinct from the editorial content of a programme because the programme's host is actually the main personality featuring in the telepromotion, which could considerably confuse a substantial proportion of viewers. ENPA wishes to emphasise the need to provide definitive indication of when the telepromotion starts and ends as well as the need to ensure that the viewer is technically alerted for the entire duration of the advertising material of the fact that what they are watching is a telepromotion.

ENPA appreciates the opportunity to participate in this public consultation and we hope that the Commission will fully take into account our arguments in this paper and the information we have already previously submitted.

ENPA, Brussels, August 2005