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THE ITALIAN FEDERATION OF DAILY NEWSPAPER AND PERIODICALS PUBLISHERS - FIEG -

Observations to the issues paper on Commercial Communications addressed to the Directorate – General Information Society and Media of the European Commission

Executive summary:

- *Introduction*
- *General remarks*
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- *Enclosures: Survey into generation of mass media advertising market worked out and approved by the 8th Permanent Commission of the Senate of the Italian Republic. May 2005.*

1. Introduction

The Italian Federation of Daily Newspaper and Periodical Publishers (Federazione Italiana degli Editori di Giornali = Fieg) is an umbrella organization for the Italian daily newspapers and periodicals, representing the interests of a total of 73 daily newspapers and 288 periodicals, in addition to the 9 national, based information and press agencies. The associated members represent roughly 95% of Italy's paid circulation of the daily newspapers and 76% of the periodical press.

At the international level, the Fieg is member of the European Newspaper Publishers Association (Enpa), of the World Association of

Newspapers (Wan), of the International Federation of the Periodical Press (Fipp).

The Fieg seeks to protect and promote the common ideals and economic interests of the publishing companies. One of the fundamental tasks of the Association is that of safeguarding the status of newspapers and periodicals as information media and as advertising vehicles. Success in the advertising business, from which the press companies need to earn about 50/60 per cent of their income, is a precondition for the quality of information services they provide whenever they are printed out. In view of the increasingly stiff competition being felt from other media, particularly from television, the Fieg avails itself of every opportunity to reaffirm and document to the public the qualities, the credibility, the journalistic competence of newspapers and periodicals and their wide-ranging potentials as advertising media.

The revision of the Television Without Frontiers (TWF). Directive that the Commission is now considering in order to take account of current technological developments, arouses concerns among the Italian daily newspaper and periodical publishers for the possibility that the revision process could lead to a relaxation of the qualitative and quantitative rules on television advertising.

2. General remarks

In rapidly changing times, the tensions of the information society are inherent conditions within which the tasks of governing institutions is to find the proper balance. Seeking the most equitable balance and the fairest course for all Member States in this historical moment means to assume the role that each medium covers in the information society.

The press is still a serious member of the media family. Even more, the maintenance and fostering of an independent, pluralistic, and free press are essential to the democracy in every country. The European

media laws should be drafted in such a way as to ensure that the free press can exist and fulfill its important tasks.

To be free and influential the press needs financial resources. Its economic viability is a condition to act freely in the information market. A press company needs advertising revenues, because they give an essential contribution to improve its newsgathering and marketing capabilities and eliminate dependence upon others for its survival. The revenue-earning model of reliance on advertising has no alternative.

Declining advertising resources is a real problem for the independence of the press and this is the reason why daily newspaper and periodical publishers are worried about their future, particularly at this time when discussions on audiovisual commercial communications at European level could bring to a legislative framework more flexible as regards the limits to television advertising.

The 8th Permanent Commission of the Senate of the Italian Republic has approved on May 31st, 2005, the final document about a survey into the generation of mass media advertising market.

The result of this survey reveal that television as a whole attracts around 54% of advertising investments in Italy, compared with 37% for the press (daily newspapers and periodicals).

The 2004 final figures on the distribution of advertising investments in Italy reveal that the share of the press dropped to 35.6% from 37.6% in 2003, while the television stations' share rised from 54.5% to 56.0% (source: Nielsen Media Research). In the first four months of 2005 the press suffered a further reduction of its share to 32.5%, while television stations scored 60.2%.

An imbalance of this size is worrying a great deal leading the 8th Commission of the Senate to recommend, among the guidelines to

promote the press in the near future, “the introduction of an asymmetric legal requirement regarding the distribution of advertising resources in order to rebalance advertising investments towards the press”. (See the attached document approved by the above mentioned Commission, available only in Italian).

3. Specific remarks

Inside the Fieg milieu there is a very wide consciousness that the digital convergence requires an integrated approach to the information society and audiovisual media policies. More than ever convergence calls into question the definition of principles to guide governments, business, citizens through the choices they will make as they produce, process, disseminate, and consume information. But the building of a new European information infrastructure should not be visualized only if it were a business opportunity mainly driven by the goals to allow “greater efficiency” and “optimum use of the benefits of the internal market”.

In the Fieg’s view a well-balanced information infrastructure should also serve civic ideals. Particularly, it should be held in due consideration that the press plays a crucial role in our societies. In other words, basic democratic values argue for building a communication system that has many paths into the home, without discouraging traditional media. This brings us to the conclusion that it should be a primary responsibility of the European Authorities to promote conditions and adopt regulations under which the press may flourish.

Greater attention needs to be directed to the fact that a predominant part of media consumption still remains on traditional television. The consumers still watch news, film, entertainment, sport, on the well-known television stations. Television, as the distribution of the advertising market shows, is the most consumed medium and it will

remain so until people will get a clear picture of the advantages to be gained by the evolution of the new media services.

I – Rules common to all audiovisual commercial communications

Issue 1: The concept of audiovisual commercial communications

We agree with the new definition of audiovisual commercial communications to subject to a common set of qualitative rules. It is worthy to note that in the issue 1 formulation there is no mention of telepromotions that, at least, should be considered and regulated in the same way of conventional advertising spots.

Issue 2 – Rules on human dignity and the protection of minors.

No remarks.

Issue 3 – Rules relating to public health consideration

No remarks.

Issues 4 and 5 – Identification of commercial communications in general, including sponsored spots. Identification of sponsored content in particular.

The directive should contain more precise provisions and, particularly, should strengthen the basic rule of the block principle with limited possibilities for exceptions.

The separation and identification principle should be a binding commitment and broadcasters must be required to clearly inform the viewer, by appropriate means, when advertising messages are transmitted.

This leads to the conclusion that identification of advertising should be optical and acoustic and the term advertising should appear continuously.

As for sponsoring of the advertising identification billboard, sponsoring has the same nature and pursues the same aims of any other form of advertising. It should be submitted to the same rules and sponsoring of advertising identification billboard should be specifically prohibited.

Isolated advertising and teleshopping must remain the exception.

As a general rule product placement is a sort of surreptitious advertising that should not be allowed.

The broadcasters should be able to exercise responsible judgement on the scheduling of advertising and in particular should be in a position to identify in advance inappropriate juxtapositions between advertising material and programmes in order to avoid distress or offence to viewers. Product placement should be banned particularly when it only serves advertising purposes and it is not indispensable for the conduct of the programme.

Sponsorship messages should be considered as advertising messages in every respect. Accordingly the rules relating to advertising duration should be the same provided for spot advertising (maximum quantity of advertising stated under art. 18 of the EU Directive) without any increase of the maximum volume.

Furthermore sponsor credits must not be integrated within any part of the programme and they must not exceed a certain time (for example 15 seconds for a single sponsor and 20 seconds for more than one).

Issue 6 – Application of the rules

No remarks.

II – Quantitative rules on television advertising.

Issue 1 and 2 – Hourly and daily advertising limits. Hourly and daily limits applied to teleshopping.

Advertising volume and the frequency of interruptions are the main cause of discomfort to the viewers. Broadcasters should be bound by stricter rules concerning the duration of advertising, particularly as regards the hourly amount. The limitation of the amount of the advertising within a given one-hour period should be strictly applied in order to avoid that the same limitation is “de facto” disregarded.

Any arguments in favour of relaxing the current time limits it is not shareable. That’s the reason why any simplification of the rule must lead to the adoption of a unique percentage of advertising on a hourly basis (20%) so to avoid the balance to be upset during the time frame within which the programmes get the highest attention.

All kind of advertising messages (spots, teleshopping, telepromotions) having the same nature, should be included in the maximum transmission time determined on hourly basis.

As for telepromotions, they are forms of television advertising based on the interruption of programmes by slots devoted to the presentation of one or more products or services, where the programme presenters, or other people playing a leading role in the programme, momentarily swap their role in the programmes in progress for one as promoters of the goods or services which are the object of the advertising presentation.

These kind of advertising messages do not comply with art. 10 of the Directive which provides that advertising must be readily recognizable as such and kept quite separate from other parts of the programme.

The general interest purpose of this provisions is to avoid any confusion between advertising and other items of the programme service. Programmes which fail to observe the principle of separation between advertising and editorial content are prohibited.

It is not by chance that in United Kingdom the ITC code of Advertising Standards and Practice (CASP) provides rules concerning the appearance of well known persons or performers in advertisements. It mentions that "In order to maintain a clear distinction between programmes and advertisements, and to minimize any risk of confusion between the two, advertisements featuring a well known personality or performer, or a person who takes a leading role in a programme, must be scheduled in breaks in or adjacent to that programme (also cartoons and puppets are covered by this rule)".

It is a very clear provision that should be adopted also at European level and put in the Directive 89/552/EEC, as an additional paragraph of art. 18.

Issue 3 – Insertion of advertising

Art. 11 of the Directive provides that advertising and teleshopping spots shall be inserted between programmes or, provided certain specified conditions are fulfilled, may be inserted during programmes in such a way that the integrity and value of the programme, taking into account natural breaks in and the duration and nature of the programme, and the rights of the rights holders are not prejudiced. Clearly this article is aimed at protecting the viewers from excessive advertising and their interests to enjoy the integrity and the value of the programme. The insertion of advertising requires that the programme is interrupted without undermining its value and integrity. This is true for any kind of programmes, since art. 11 covers any possible situation. Par. 2 of the same article does not require interruptions simply because it refers to programmes which are structurally composed of different ("autonomous") parts or they

contain intervals, so the insertion of advertising is permitted in correspondence to the interval between the parts or in the intervals. As to the aims pursued, it seems that the integrity of a programme and the interests of the viewers may be better protected if the transmission of the programme (a film, for example) is not disturbed by artificial breaks that should be basically prohibited.

As for “natural break”, it should be defined “as a point at which some interruption in programme continuity would in any case occur were the programme not to be interrupted by advertising”. This definition is based on Section 6 of the Independent Television Commission (ITC) Code of Advertising Standards and Practice (rules on the amount and scheduling of advertising) in force in United Kingdom .

Any change in the legislative framework for introducing more flexibility to insert advertising during programmes could deeply affect the general interest objectives pursued by the Directive.

4. Enclosure

26 July, 2005