



The Voice of British Advertisers

## Television Without Frontiers Directive Revision Issues Papers

**About ISBA - The Voice of British Advertisers.** ISBA is the single body representing the interests of British advertisers in all areas of commercial communications, including TV advertising, radio, press, outdoor, new media, direct marketing, sponsorship and sales promotion. ISBA has around 380 members, whose total communications spend approaches £10 billion per annum.

ISBA is a member of the World Federation of Advertisers and of the UK Advertising Association.

### ISBA Approach to TVWF Revision

Advertisers support the TVWF Directive in the creation of a single market for television in the EU

Advertisers have welcomed the revision process and have particularly supported the interpretative communication, which has helped to keep the directive current whilst all the options for reform are considered.

In assessing the impact of changes to the Directive UK Advertisers have established the criteria below:

1. Support for the maintenance of the Country of Origin principle as the only working basis for the Directive.
2. That a revised directive should be capable of implementation
3. That the directive only covers activities that need to be regulated at the Community level.

As the representative body for British advertisers the comments in this paper are confined to the SCOPE of the Directive and to the paper on Commercial Communications.

## Scope

**Viewing patterns changing.** The rapidly changing nature of televisual services has necessitated a full review of the scope of the Directive. The traditional pattern of viewer behaviour, of watching the prescribed content on TV channels and switching between these linear transmissions is changing. Viewers are increasingly having the choice of pulling programme content at a time of their choice. With the development of the Internet and 3G technology viewers increasingly have their choice widened beyond the traditional concept of a television receiver.

**Good regulation.** Advertisers expect commercial communications to be subject to good regulation that provides consumer protection, business certainty and proportionality. They do not however expect the different media to be regulated in exactly the same way or have precisely the same rules where the differences in the media justify variance. For example in the UK the print media and outdoor are subject to self-regulation, whilst broadcast advertising is under a co-regulated scheme.

**Internet advertising.** The suggestion in the Issue Papers that the EU may wish to include Internet audio visual content in TVWF seems to fail the test of being capable of meaningful enforcement, as well as being regulated by Directive already. Advertisers, seeking to promote goods or services within the EU on Internet non-linear services, would expect to be

subject to the provisions of the Unfair Commercial Practices Directive and the E-Commerce Directive. It is not clear from the Papers why the Commission are proposing to duplicate or side step their existing Directives.

**Radio.** Advertisers can see no reason why radio advertising should be included in the TVWF. Nearly all radio services are local (city and regional within Member States) and are therefore best regulated by Member States. There is very little visual input to radio and to the extent that digital radio can include a visual element the inclusion in the TVWF Directive would probably act as a disincentive to developing the capability.

## **Commercial Communications**

**Clear identification.** ISBA fully supports the proposals to ensure that advertisements are clearly seen as such.

**Quantitative limits.** ISBA supports the present limits and agrees that it would be impractical to extend quantitative limits to non-linear services. Nor should quantitative limits be applied to programme sponsorship or product placement.

**Product placement.** Advertisers welcome the suggestion that product placement should be allowed as a paid for commercial communication. The issue of identification is important to protect consumers; we would recommend however that the Commission allows for flexibility as to where in the programme the identification should occur.

**Insertion criteria.** The TVWF rules on the insertion of advertising should be relaxed to give flexibility. Advertisers understand the desire to maintain the ban on advertising during religious programming and the rules covering news programmes. Advertisers exercise a special level of responsibility and caution in advertising to children and support the need for insertion rules. Advertisers however do not accept the need for the current insertion rules for cinematographic works.

**Self-regulation.** Advertisers fully support the UK self-regulatory systems for which they pay a levy on their advertising spending and which is the established means to implement the EU directives and UK Government law. ISBA is a supporter of the European Advertising Standards Alliance and the 'EASA Advertising Self-Regulation Charter', which is at the heart of a system of effective self-regulation of commercial communications currently being rolled out in all Member States. Based on UK experience advertisers appreciate the value of Member State endorsement of SR systems as well as the need for SR systems to reflect the traditions of individual Member States. Advertisers fully support the EASA argument in favour of a fully endorsed reference to 'self-regulation within a legal framework' in the body of the Directive text. Such a reference will give Member States the necessary remit to develop their own tailored self-regulatory systems.

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