

ENPA



**ENPA RESPONSE TO THE COMMISSION'S GREEN PAPER ON "PROMOTING HEALTHY DIETS AND PHYSICAL ACTIVITY: A EUROPEAN DIMENSION OR THE PREVENTION OF OVERWEIGHT, OBESITY AND CHRONIC DISEASES".**  
**(Brussels, 08.12.2005 COM(2005) 637 final).**

**MARCH 2006**

- Page 6, Question 1 on that page, (English version):

**What are the concrete contributions which Community policies, if any, should make towards the promotion of healthy diets and physical activity, and towards creating environments which make healthy choices easy choices?**

The EU can do a lot of positive work to promote healthy diets. However, if any action is envisaged at the EU level, it should follow a positive course of actions, for example supporting more campaigns to eat healthy fruit and vegetables, and indeed a balanced diet in general, as well as promoting initiatives which educate people of the dangers of drinking excessive amounts of alcohol. There should be more options for making healthy choices cheaper choices. ENPA – the European Newspaper Publishers' Association does not believe that the EU should move in the direction of banning the advertisement or commercial communication of any foods as this would equate to suppressing the commercial freedom of expression. ENPA stands by the principles set down within the EASA (European Advertising Standards' Alliance<sup>1</sup> of which ENPA is a member) commitments to ensure advertising must be legal, decent, honest and truthful. There should not be any efforts on behalf of the EU to restrict advertising of the foods considered to be "less healthy". This is partly because EU policy makers should also always remember that the consumer has the right to choose how they eat. If that consumer has all information on all products available to them, they are more likely to make the right informed choice.

Authorities need to devote considerable efforts to finding ways to conceive imaginative advertising campaigns that are able to compete with those of the biggest advertisers by capturing the attention and imagination of the general public. It can be done – as the Dutch government has done recently<sup>2</sup>. The solution is not for authorities to skirt around the real issues at hand by simply banning other information, which may be available. The debate on

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<sup>1</sup> <http://www.easa-alliance.org/>

<sup>2</sup> The Dutch government started in 2003 a national campaign (which runs to 2006), which was also published in several newspapers and magazines.

"In anticipation of the Obesity Action Plan, the State Secretary has invested in the establishment of an Obesity Knowledge Centre ([www.voedingscentrum.nl](http://www.voedingscentrum.nl)), whose role is to promote the distribution of information. In addition, a national campaign was launched in December under the banner "Maak je niet dik" ("Don't Get Fat"), with the aim of warning young adults of the dangers of gradual weight gain ("another kilo every year").

<http://www.ingentaconnect.com/content/cabi/phn/2005/00000008/00000008/art00005> (English)

the draft Regulation on nutritional and health claims is an example which demonstrates the concern attached to this subject. The Commission's proposal<sup>3</sup> intended to ban all nutritional and health claims which appear on products containing more than 1.2% of alcohol. Banning the claims does not make sense if the alcohol content has been clearly marked on the packaging, neither does it make sense to ban the claim if it is indeed truthful, decent, honest and legal under general law. Instead of introducing information bans and restrictions, the Commission could also look into coordinating more closely with colleagues in relevant authorities and departments regarding more promotion of physical activity, such as for example sports projects in those areas of society which could most benefit.

The importance of engaging all European Institutions in specific programmes for improving information to youth on healthy diets and the importance attached to promoting physical activity is key. The current Austrian Presidency was criticised recently by the European Parliament's Culture Committee<sup>4</sup>, just as the previous UK Presidency was criticised for not providing nearly enough funding for youth programmes in sport. This is something which needs serious attention, rather than looking at initiatives which restrict commercial speech in the false belief that advertising is one of the key elements contributing to obesity amongst the public.

- Page 7, Question 2 on that page, (English version):

**How can the programme contribute to raising the awareness of the potential which healthy dietary habits and physical activity have for reducing the risk for chronic diseases among decision makers, health professionals, the media and the public at large?**

ENPA considers that this question is also very relevant in view of the EU's current reflection on its communication strategy with citizens. There may be a need for more proactive advertising and/or information campaigns from national governments which could be made available to the mass media that citizens come into contact with everyday. This could be executed with help from the Commission's new Communication Strategy<sup>5</sup>, whereby better communication channels (e.g. new ways of developing language used at the European Commission which means something tangible for the everyday citizen and a visible impact also at the local level) put in place by the Commission may be able to attract media interest in an open and simple-to-use way on such Community health programmes at national and local level.

- Page 8, Question 3 on that page, (English version):

**Are voluntary codes ("self-regulation") an adequate tool for limiting the advertising and marketing of energy-dense and micronutrient-poor foods? What would be the alternatives to be considered if self-regulation fails?**

ENPA members fully support and participate in the systems of self-regulation of advertising in Europe. The voluntary codes are, in ENPA's eyes, adequate. Appropriate sanctions or legal backstops are in place, which support the effectiveness of the self-regulatory code. Self-regulation must be given the genuine chance it needs by the Commission before considering

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<sup>3</sup> The Commission's proposal 16.07.2003, COM(2003) 424 final. With particular reference to Article 4.3.

<sup>4</sup> Culture committee debate with the Austrian presidency representative, Mr Franz Morak. 24.01.2006.

<sup>5</sup> Commission White Paper on a European Communication Policy 1.2.2006, COM(2006) 35 final.

any scenarios about failure of self-regulation. Self-regulation is the most appropriate tool above all others for ENPA because our industry believes that it is the only tool which does not unjustifiably restrict free speech.

ENPA questions what the Commission means by “limiting” the advertising of certain foods and in particular questions whether any sort of limitation would be ultimately necessary as long as advertising is decent, honest and truthful? ENPA would certainly not support overly burdensome rules for advertisers which would unreasonably limit the consumer’s access to legal, honest, decent and truthful information. With regard to the specific reference to advertising and marketing of energy-dense and micro-nutrient poor foods, ENPA would not support regulatory measures from the EU Commission that discriminate the marketing of one food over another, which could indirectly lead to the classification of what are “bad foods” and “good foods” and fail to take into account the need to inform consumers what constitutes a balanced diet. ENPA is convinced that self-regulation provides a well-organised and transparent system for checking that adverts meet basic rules which ensure that the public is not misled.

If the Commission did decide that further measures were necessary regarding the limiting of advertising, it would equally be relevant to consider the relationship between media advertising income and the quality of media products and subscription prices for readers. Lower advertising income means either lower quality products or higher prices for subscribers (or both). Therefore, we reiterate that the commitment to legal, honest, decent and truthful advertising under general law is by far a better option for the freedom of expression than any proposal to ban advertising of certain products. Indeed, the banning of adverts in the context of the obesity debate for certain products which exist and are sold perfectly legally is not a fair or proportionate solution for advertisers or the media or indeed consumers in light of the above arguments.

- Page 8, Question 4 on that page (English version):

**How can effectiveness in self-regulation be defined, implemented and monitored? Which measures should be taken towards ensuring that the credulity and lacking media literacy of vulnerable consumers are not exploited by advertising, marketing and promotion activities?**

In particular, the key is impartiality when considering the effectiveness of self-regulation – the complainant is assured of an impartial judgement as a basic principle of self-regulation. Self-regulation’s effectiveness can be implemented through ensuring that the public knows about the self-regulatory system and that the public knows how to use it and what to expect from it. Effectiveness in self-regulation can be monitored through ensuring the public announcement of decisions made by self-regulatory organisations against offending advertisers and giving the complainant the opportunity to appeal the self-regulatory decision if they so wish.

Self-regulation can equally cater for the needs of vulnerable consumers. Newspapers already know well the target audience for their publication; therefore they gauge the appropriateness of their advertisements accordingly for their target market. If the newspaper is uncertain of the impact of an advertisement on certain consumers amongst its readership, the newspaper is able in some countries to refer the advertisement to the self-regulatory organisation for an independent opinion on whether the advertisement may be suitable for the readership that the

newspaper serves. Nevertheless, the responsibility which must be assumed by the advertiser should not be underestimated – it should ultimately be the advertiser’s responsibility to ensure that an advert complies with relevant and proportionate rules. That is to say that the media should not face undue pressure or discriminatory rules which should in fairness be directed at the advertisers.

- Page 9, Question 4 on that page (English version):

**How can the media, health services, civil society and relevant sectors of industry support health education efforts made by schools? What role can public-private partnerships play in this regard?**

Local newspapers have already for many years been closely linked with their respective communities that they cover, just as national newspapers are well-placed to report on national trends and initiatives that are taking place in education, health and other areas. However, nothing can be done and action is not necessary at the European level in this respect because editorial independence principles continue to apply. Authorities cannot be guaranteed space on a uniform basis in editorial parts of a publication. Neither can the Commission legislate about what newspapers should or shouldn’t write about e.g. introduction of restrictions on what to write or recommend on certain angles to take in the health debate related to obesity. Newspapers should remain independent to take the angle that they believe is important for their readership. Nevertheless, this said in a positive light, ENPA suggests that a more accurate, adequate, relevant and timely information from public authorities to journalists is recommended.

We do also re-emphasise the need for effective communication from national public authorities, through employing strategic public campaigns which could also use the media (with full respect for editorial independence) that can reach parents and make them better aware and therefore more likely to understand about the efforts made through schools.

#### END OF ENPA RESPONSE TO CONSULTATION

*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.*

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