

Brussels, 18 May 2009

Re: Energy Labelling Directive – Concerns of the publishing industry

With a severe and worrying impact on the press and media, the European Parliament adopted on 5 May amendment number 32 that adds a new restriction to the European Commission's proposal for the recast of the Energy Labelling Directive by stating:

*“Any advertisement for a specific model of energy related products covered by an implementing measure under this Directive, where technical specifications are disclosed, **shall** provide end-users with the necessary information regarding energy consumption or energy savings or include a reference to the energy class of the product”.*

A free, independent, diverse and vibrant media in Europe depends heavily on advertising without restrictions and mandatory information requirements.

- **Therefore we are seeking your active support to reject amendment 32 in the Council.**

Quite rightly, the Commission did not propose such a measure in its original proposal for a recasting of the Energy Labelling Directive and we urge you to follow their original proposal on this matter.

As Commissioner Piebalgs also mentioned in his speech before the European Parliament Plenary on 5 May, the issue of advertising requirements will be one of the cornerstone discussions between the institutions in future. He stated: “How far can the institutions go to promote energy efficient product selling practices without hampering civil liberties of the free press?”

The European print and online newspaper and magazine publishers are extremely concerned about the amendment, as especially in the printed press, such products are advertised by producers and retailers who already give technical information on the product on a voluntary basis and in compliance with statutory rules about claims, unfair or misleading advertising. If detailed information requirements are mandated by law, this changes the freedom of advertising to a statutory information provision. As a result such advertisements, in particular in static print media, would no longer be attractive for the retailers and producers which would in turn lead to losses of advertising revenue for the media that carry them.

The directive in force has put in place an efficient and successful system to inform consumers in an effective manner before the purchase of a product. To add information requirements - irrespective of their form - to advertising, regardless of the type of advertising (e.g. image, brand or detailed) - would simply encourage advertisers not to place advertising

in media in the case where products might not have the most energy-efficient output, and to find other ways to market their products thereby draining revenues from the media.

In addition to the immediate and adverse impact of this amendment on European media, we are further concerned with the dangerous precedent set by the Parliament's amendment on a fundamental matter of principle. Such a mandatory information requirement in advertising in this Energy Labelling Directive could create a precedent for other labelling directives in the future. While freedom of advertising and freedom of commercial speech is fundamental to the freedom of the press, introducing such an obligation for advertising would open the door for more advertising requirements in the future with very negative consequences for the freedom of media in Europe.

As a matter of principle, therefore, Europe's print and online press are strongly opposed to politically-motivated requirements of a public policy nature to be obligatorily inserted in advertising in the free media.

While we can appreciate the imperative to support measures to reduce global warming, we argue that obligatory technical information in advertising will not achieve this public policy objective. Instead, it will create collateral damage to the media, as advertisers will not spend marketing budgets in display advertising where they are obliged also to present information which is not necessarily relevant to their products' key features.

Indeed, it is in the free media, funded largely by advertising, that citizens find information and can be educated by the editorial content which in turn activates citizens to change their behaviour. This cannot be achieved by political messages in free advertising.

As the only possible way to respect advertising freedom as a fundamental component of press freedom is to assure that information on energy consumption may be provided in media advertising on a voluntary basis by the producer and retailer we urge you to reject amendment 32 adopted at the European Parliament.

Please find as an Annex to this letter further explanation on the view of the European print and online newspaper and magazine publishers on this matter:

Please do not hesitate to contact us for any questions you might have.

Kind regards,

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ANNEX

1. The current information system in force is efficient and successful

The existing Directive is a perfect example of an efficient and successful system for informing consumers in a profound manner before the purchase of a product. According to the legislation in force, information relating to the consumption of electric energy, other forms of energy and other essential resources, and supplementary information has to be brought to the attention of the consumer by means of a fiche and a label directly in the show-room or indirectly by any means of distance selling. Because of this obligation, the consumer is provided with accurate, relevant and comparable information on the specific consumption of energy and other essential resources of a certain product and is able to make an informed purchase decision. In addition, large number of consumers search for products from the websites of the manufacturers and/or retailers and find information from there easily.

2. Important role of the media in informing about environmental issues

The free media plays a vital role in complementing the overall policy objectives of the EU Institutions in environmental issues by bringing this debate to the citizens of Europe through the editorial content, like no other communication means. The free media is an indispensable element of fighting climate change in Europe and for raising consumer awareness with regard to protecting the environment. To address these issues it is vital to maintain vibrant, independent and quality media.

3. Freedom of advertising is a necessary component of the freedom of the press

The importance of advertising revenues in providing independent sources of finance for all media which guarantee that the media can continue to contribute to this information and opinion formation as regards climate change and energy efficiency cannot be stressed enough. We are very worried that any proposal for mandatory information requirements in advertising risks becoming widely accepted part of *acquis communautaire*. Even if brought forward in the name of a good cause such as climate change the advertising freedom a basic principle of the free press will be damaged concretely with not foreseeable structural consequences.

Advertising revenues are getting more important each day as press is increasingly provided online and thereby practically no sales revenues are generated. If media advertising is damaged the press loses a financial basis that cannot be replaced. But for energy related products there will be most likely a shift to other marketing means. The media will suffer unjustifiably by losing vital advertising revenue for no purpose and hence citizens will lose rich editorial information about environmental issues. This is particularly the case in the current economic climate, where advertising revenues are falling drastically for all media.

4. Role of advertising is to promote various brands and key features of a product or service

Advertising is not labelling and in our view any mandatory information in advertising brings no benefit to consumers yet carries disadvantages in terms of the effectiveness of media advertising. The role of advertising, among other things, is to promote the various brands and key features of a product or service. Advertising's role therefore is not to inform the consumer in any great detail, which is better left to brochures, company websites and showrooms when consumers have more time and attention to pay to the important detail.