



## **AIG comments on the Inception Impact Assessment for the legislative initiative “empowering the consumer for the green transition” - Ref. Ares(2020)3256804**

6 August 2020

On behalf of the European advertising and media associations it represents, the Advertising Information Group (AIG) welcomes the European Commission's aim to meet consumer demand for sustainable products and services in the future through better and more uniform information. The provision of accurate, reliable, comprehensible and consumer-friendly information with regard to criteria such as reparability, shelf life, etc. can make an important contribution to a more sustainable society which we all support.

We agree with an approach designed to give an appropriate level of consumer protection. Existing advertising Codes of Practice recognise this with rules on environmental claims. However, care must be taken not to burden the consumer with over-complicated information in advertisements as this would be counter-productive.

This consumer legislative initiative, which was first announced in the Circular Economy Action Plan, proposes various regulatory approaches. Despite the multi-dimensional proposal, we will limit our contribution on the information aspect.

We believe that informing consumers at the point of sale is the most appropriate way to provide them with the necessary consumer protection information, as it is at this point that the decision to buy a particular product is made.

By contrast, **advertising, as a commercial communication, has a different function: it draws consumers' attention to a product or group of products and often encourages them to look more closely at relevant investments.** A concrete purchase decision, for which the aspects of sustainability can be an important element, is not yet made here. Moreover, sustainability aspects already play an important role in commercial communication, with the emphasis on aspects such as durability, environmentally friendly production, etc. The advertising industry has therefore long since adopted this important decision criterion for customers. Advertising thus already plays the role of a driver of innovation and thus the green transition.

It is important to note that consumer research has shown that mandatory information in advertising is not very impactful and often ignored, as consumers struggle to absorb or retain long and complex additional information and figures. Moreover, mandatory information requirements with regard to advertising would lead to this form of communication becoming less attractive for advertisers in the future due to higher costs and, by reducing the time period of the freely designable sequences, the information content on sustainability aspects would also decline.

We should also be cognisant of the fact that environmental labelling only works if consumers notice it during their shopping experience and understand it, and is trusted and valued as a tool for decision making in the sales process<sup>1</sup>. It seems illogical to place such labelling requirements on advertising when the intent to purchase has not yet been established. Moreover, the proliferation of environmental labelling could lead to possible confusion and misunderstanding of the label meaning and environmental stringency, resulting

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<sup>1</sup> Thøgersen, J. Psychological Determinants of Paying Attention to Eco-Labels in Purchase Decisions: Model Development and Multinational Validation. *Journal of Consumer Policy* 23, 285–313 (2000).  
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in a loss of credibility among consumers<sup>2</sup>. The Commission should be wary of any potential unintended consequences i.e. advertisers only choosing to advertise their most environmentally friendly products and services. This does not necessarily provide the consumer with more information from which they started with and may be inadvertently interpreted as all products and services offered by the company as being of the same or similar environmental standard.

**Improving information requirements at the point of sale would also be in line with the reasonable compromise found at EU level in the past decade between mandatory product information for all consumers and the advertising freedom as well as the financing of the free press and media.** The compromise ensured that on the one hand, all consumers will inevitably be confronted with all relevant information – including labels - before the purchase decision at the point of sale. On the other hand, the freedom to advertise was preserved and media advertising remained free from any mandatory graphics or eye-catching information, as this would undermine the freedom to advertise, render the advertising space less attractive and therefore also jeopardize advertising revenues of the press and media.

Advertising primarily serves to advocate for a business or product, not necessarily to increase overall consumption, but to encourage a consumer to choose one product over a competitor's. With environmental impact becoming an increasingly important factor for consumers, advertising already informs the public on how 'green' a product is, and drive companies to improve their ecological practices. Advertising increases competitiveness within the market and drives innovation. Restrictions on advertising therefore can also have adverse impacts for innovation and reduce competitiveness with regard to cost, quality, durability, and sustainable business practices. They also seem contrary to Article 16 of the Charter of Fundamental Rights which requires that exceptions to the freedom to conduct a business must be proportionate and necessary.

In addition, there are already **self-regulatory Codes of Practice on advertising in place, which set stringent standards**, including on environmental and health issues.

For the reasons above, **we encourage the Commission to focus on improving the information at the point of sale only**. As this has been identified as a main weakness in the current situation, addressing this aspect will already substantially improve the status quo and complement the already significant role played by the free media and advertising industry. At the same time, any advertising restriction would disproportionately hurt sectors which have been severely affected by the COVID-19 pandemic, and further jeopardize press and media financing, potentially putting the existence of the sector at risk. Hence, it would even be counterproductive for providing information about environmental issues to consumers.

With regard to better enforcement of consumer protection rules, we would point to the new deal for consumer proposals, which have been adopted over the past year, and which have not been transposed yet. It would therefore be advisable to assess the effectiveness of the new rules first.

Yours sincerely,

**Francesca Fabbri,  
Association Manager, AER**

**Nina Elzer,  
Senior Public Affairs Manager, EACA**

**Conor Murray,  
Regulatory and Public Affairs Director, egta**

**Angela Mills Wade  
Executive Director, European Publishers' Council**

**Katja Heintschel von Heinegg,  
Director, AIG**

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<sup>2</sup> OECD (2016). Environmental labelling and information schemes – Policy Perspective. OECD May 2016. Available from [www.oecd.org/env/labelling-and-information-schemes.htm](http://www.oecd.org/env/labelling-and-information-schemes.htm)