



Observations on behalf of the European Heart Network to the Issue Paper for the audiovisual conference in Liverpool regarding the Television without Frontiers Directive (TVWF)

Commercial communications

August 2005

EXECUTIVE SUMMARY OF SUBMISSION ON BEHALF OF THE EUROPEAN HEART NETWORK

In the European Union, there is widespread concern about the increasing prevalence of overweight and obesity among children. Approximately 20% of school-age children in Europe are overweight, of which a quarter is obese, with a significant likelihood that some will have multiple risk factors for cardiovascular diseases, type 2 diabetes and other co-morbidities before or during early adulthood.

Advertising has an impact on children's food preferences, purchase behaviour and consumption at both brand level and category levels and is independent of other factors. It is considered as a significant contribution to poor dietary health including childhood obesity amongst those concerned with public health.

In the framework of a pan-European project on children, obesity and associated avoidable chronic diseases, coordinated by the EHN and co-funded by the European Commission, the extent and nature of food marketing of unhealthy food to children was assessed. One of the findings was that the percentage of TV advertisements for food aimed at children that were for unhealthy foods ranged from 49% to nearly 100%.

Referring to Article 152 in the Treaty and several Council Conclusions, EHN believes that the revision of the Television without Frontiers Directive presents an ideal opportunity to make a contribution to halting and reversing the epidemic of obesity and to prevent avoidable diet-related chronic diseases, such as cardiovascular diseases.

Recommendations:

- Establish a basic tier of qualitative rules applicable to all commercial communications regardless of audiovisual media;
- Prohibit advertising of unhealthy food and drinks to children in Article 16 of the TVWF Directive;
- Define "children's programmes" appropriately so as to ensure that advertising, sponsorship and product placement will not lead to an increase in exposure to commercial communications of unhealthy food and drinks, including brands, to children (see page 4 of this paper);
- Prohibit product placement in programmes that are likely to be viewed by children.

I INTRODUCTION

The European Heart Network (EHN) is a Brussels-based alliance of heart foundations and others concerned non-governmental organisations in 26 European countries.

EHN plays a leading role in the prevention and reduction of cardiovascular disease* so that it is no longer a major cause of premature death and disability throughout Europe.

II BACKGROUND

Public Consultation 2003

EHN attended the public hearings in April 2003, which were part of the consultation process, and in July 2003, EHN submitted its comments which concentrated on commercial communication of unhealthy** food to children.

In its submission, EHN recommended that Article 16 be amended to include a general reference to the protection of minor's *health* and to include a specific ban on advertising of unhealthy food and drinks to minors in or around television programmes viewed by children.

EHN made this recommendation because of the widespread concern about the increasing prevalence of overweight and obesity among children. Approximately 20% of school-age children in Europe are overweight, of which a quarter is obese, with a significant likelihood that some will have multiple risk factors for cardiovascular diseases, type 2 diabetes and other co-morbidities before or during early adulthood.

EHN emphasised that marketing of unhealthy food to children, including in particular TV advertising, has an impact on children's food preferences, purchase behaviour and consumption at both brand level and category levels and is independent of other factors***. It is considered as a significant contribution to childhood obesity amongst those concerned with public health.

In the European Commission's assessment of the outcome of the public hearing, the Commission stated that Article 16 was generally considered to be satisfactory. However, the Commission did acknowledge that *'according to certain contributions, not everyone agrees that the rules on the general standards and the protection of minors are being applied satisfactorily.'*

Focus Groups 2004/2005

Following the public consultation, EHN participated in Focus Group 2 meetings on the *'level of detail in the regulation in the regulation of television advertising'*. During the meetings of Focus Group 2, EHN maintained that Article 16 on television advertising to children was not respected; that implementation measures alone were unlikely to achieve

* Cardiovascular disease is the major cause of early death and disability in the European Union

** Unhealthy food is defined as food that is high in fat, sugar or salt

*** Hastings et al, 2003

the aims of Article 16; and that the only appropriate response to the health issues arising from substantial amounts of advertising of unhealthy food to children was to prohibit such advertising.

EHN also expressed concern about the proposal from the Commission to consider abandoning the principle of separation between advertising and programmes and, thus, allowing in general the use of product placement.

III DISCUSSION OF ISSUE PAPER ON COMMERCIAL COMMUNICATIONS

Findings from report on 'Marketing of unhealthy food to children in Europe'^{****}

On 1 March 2004, EHN commenced a project on children, obesity and associated avoidable chronic diseases, co-funded by the European Commission. The aim of this project is to tackle the obesity epidemic among children and young people. In the first phase of the project, the extent and nature of food marketing of unhealthy food to children was assessed by EHN member organisations in 20 European countries, of which 18 EU Member States and two EEA Member States.

Some of the findings are:

- those concerned with children's health and well-being – health, consumer and other citizens' organisations – tend to argue that 'unhealthy' food marketing to children is one of the significant contributors to poor dietary health and childhood obesity;
- the percentage of TV advertisements for food aimed at children that were for unhealthy foods ranged from 49% in Italy to nearly 100% in Denmark and the UK;
- a considerable amount of money is spent by companies marketing unhealthy foods to children, with the great majority spent on TV advertisements. However, there are signs that the proportion of advertising budgets spent on TV may be declining slightly, with small but rising proportions being diverted into other media and environments such as marketing in schools and the Internet;
- regulation of marketing to children is generally very weak and variable, with the majority of regulatory effort focusing on TV; in the 20 countries surveyed, there is at least one statutory code on broadcast advertising broadly based on the Television Without Frontiers Directive. Sweden and Norway have tried to protect their children from TV advertisements by prohibiting them within their borders. However, their efforts are being undermined by advertisements on cable and satellite TV broadcast from other countries, and by other forms of marketing.

^{****} The Marketing of Unhealthy Foods to Children in Europe. EHN. Brussels 2005

Specific comments to: I Rules common to all audiovisual commercial communications – Issues 1, 3 and 4

Issue 1 – The concept of audiovisual commercial communications

EHN takes note that most experts consulted were in favour of technologically neutral rules, thus having one set of qualitative rules applicable to all audiovisual commercial communications whether linear or non-linear.

EHN supports the proposal to establish a basic tier of qualitative rules applicable to all commercial communications regardless of audiovisual media, i.e. television, internet.

EHN also takes note that the groups consulted were in favour of the adoption of a new definition of ‘audiovisual commercial communications’ to cover audiovisual commercial communications of all kinds, including for instance product placement. EHN will discuss this further below under *Issue 4 – Identification of commercial communications in general, including sponsored spots*.

Issue 3 – Rules relating to public health considerations (tobacco, alcohol, medicines)

Tobacco, alcohol and medicines are clearly related to public health. It is widely recognised that diet is a major health determinant and it has been estimated that unhealthy diets account for around 30% of cardiovascular deaths. Unhealthy diets are clearly directly related to obesity, which is a significant risk factor for cardiovascular diseases.

Tobacco, alcohol and medicines are covered specifically in the TVWF. EHN believes that considering the serious health consequences of obesity epidemic amongst children, the TVWF should include in Article 16 a prohibition on TV advertising of unhealthy food and drinks to children.

The definition of “children’s programmes” should be broad enough to take account of all programmes where a significant proportion of the audience are children, based on the acknowledged audience profile for the programme. Restrictions should not be limited to only those programmes whose stated target audience are children but also include programmes that are likely to be viewed by children.

Issue 4 – Identification of commercial communications in general, including sponsored spots

EHN recognises that product placement is allowed to a limited extent in the interpretation of the current TVWF – namely for the purpose of identifying the sponsor - but otherwise it is not authorised due to the principles of identification and separation.

If product placement were to be considered as a legitimate commercial communication (see above under *Issue 1 – The concept of audiovisual commercial communications*), it would have to comply with the principles set out in the TVWF Directive’s Articles 12 to 16 whereby such advertising technique may not be implemented in religious programmes, news programmes or children’s programmes.

EHN has expressed concern about abandoning the principle of separation and allowing in general the use of product placement as a legitimate commercial communication. Should the new Directive not prohibit advertising of unhealthy food and drinks to children, as recommended by the EHN, and should it authorise product placement, it remains essential that “children’s programmes” be defined appropriately so as to avoid an increase in exposure to commercial communications to children for unhealthy food and drinks, including brands (see also under issue 3, above). Such an increase is inevitable since product placement will be *additional* to regular advertising spots.

The fact that there would be an obligation to provide clear identification at the beginning of programmes containing product placement is not considered a relevant safeguard where children are concerned. EHN believes it cannot be assumed that identification will offset or diminish the promotional effect of product placement to young viewers and therefore product placement should not be permitted in programmes likely to be viewed by children.

IV CONCLUSIONS AND RECOMMENDATIONS

EHN believes that the revision of the Television without Frontiers Directive presents an ideal opportunity to make a contribution to halting and reversing the epidemic of obesity and avoidable diet-related chronic diseases, such as cardiovascular diseases.

This would be in line with the Treaty’s Article 152 which aims at mainstreaming health into all EU policies.

In addition, EHN draws the Commission’s attention to the Council Conclusions on Obesity of December 2002 where the Council underlines the need for a cross-sectoral approach to prevent problems resulting from obesity, including in the education and cultural sectors, and invites the Commission to ensure that prevention of obesity is taken into account in all relevant Community policies. EHN also refers to the more recent Council Conclusions on promoting Heart Health of June 2004 where the Council invites the Commission to address the impact on public health of the promotion, marketing and presentation of foodstuffs.

EHN recommends to:

- Establish a basic tier of qualitative rules applicable to all commercial communications regardless of audiovisual media;
- Prohibit advertising of unhealthy food and drinks to children in Article 16 of the TVWF Directive;
- Define “children’s programmes” appropriately so as to ensure that advertising, sponsorship and product placement will not lead to an increase in exposure to commercial communications of unhealthy food and drinks, including brands, to children;
- Prohibit product placement in programmes that are likely to be viewed by children.