



## **Submission on behalf of the European Heart Network in the context of the review of the ‘Television without Frontiers’ Directive**

July 2003

### **I INTRODUCTION**

The European Heart Network (EHN) is a Brussels-based alliance of heart foundations and others concerned non-governmental organisations in 25 European countries.

The mission of the EHN is to play a leading role through networking, collaboration and advocacy in the prevention and reduction of cardiovascular diseases\* so that they will no longer be a major cause of premature death and disability throughout Europe.

EHN welcomes the opportunity to submit its observations in the context of the Commission’s review of the ‘Television without Frontiers’ Directive. EHN has attended two of the public hearings, namely on 2 April 2003 for the debate on discussion paper 3 regarding protection general interests in television advertising, sponsorship, teleshopping and self-promotion and on 24 June 2003 for the debate on discussion paper 4 on protection of minors and public order - right of reply.

EHN has studied the questions to which the European Commission is requesting responses and our observations are set out below. To put our recommendations and observations in perspective, we first set out the background for our submission.

### **II BACKGROUND**

Over the last decade, advertising to minors has increased considerably and in particular advertising of food. Surveys have shown that food advertising to minors comprises the largest category of products advertised to children - up to 70% of all advertising to children is for food. Foods high in fat, sugar and/or salt account for over half of all food advertisements.

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\* Cardiovascular diseases are the major cause of early death and disability in the European Union

It is clear that such advertising is an important determinant in shaping minors' food preferences and diets [Advertising Education Forum. Parental Perceptions of Key Influences in Children's Lives. 2000; National Health and Medical Research Council. The media and public health. Canberra: AGPS, 1985] and as such their health status not only as children but also as adults. The concerns are:

- unhealthy diets, i.e. diets high in fat (particularly saturated fat) and salt, are major causes for premature disability and death from cardiovascular diseases;
- diet-induced risk factors, such as high blood cholesterol levels, atherosclerosis, high blood pressure and conditions, such as diabetes type 2 (all major risk factors for cardiovascular diseases), are found in obese children nowadays, whereas previously these were only present in adults;
- obesity levels among children in the European Union are on a steep increase (obesity is also an important risk factor for cardiovascular diseases).

Public surveys have shown that there is a high level of concern among parents regarding the pressure that they are under to buy the foods that are advertised and which, generally, are of low nutritional value and basically the antithesis of what is recommended for healthy eating for children [ICM/Guardian. May 2003].

EHN believes that the revision of the Television without Frontiers Directive is an ideal opportunity to make a contribution to halting and reversing the epidemic of avoidable diet-related chronic diseases and, among others, responding to the concerns set out in the Council Conclusions on Obesity of December 2002. In these Conclusions, the Council underlines the need for a cross-sectoral approach to prevent problems resulting from obesity, including in the education and cultural sectors, and the Council invites the Commission to ensure that prevention of obesity is taken into account in all relevant Community policies.

### **III DISCUSSION DOCUMENT ON THEME 3: PROTECTION OF GENERAL INTERESTS IN TELEVISION ADVERTISING, SPONSORSHIP, TEleshopping AND SELF-PROMOTION**

#### Questions regarding Articles 12 and 16

In response to the question whether there are problems with the interpretation of the concepts with regard to recent technological and market developments, it is EHN's opinion that there are problems with the interpretation of the concepts set out in:

- Article 12 *Television advertising and teleshopping shall not encourage behaviour prejudicial to health and safety;*
- Article 16.1 *Television advertising shall not cause moral or physical detriment to minors, ...;*
- Article 16.1 (b) *it (advertising) shall not directly encourage minors to persuade their parent or others to purchase the goods or services being advertised.*

If the concepts of these articles had been fully respected, food advertising to children would already have been restricted or banned given the link between such advertising and the severe health outcomes listed above in section II as well as the pressure put on parents. Although some countries have implemented rules restricting or banning food advertising to children (see also below), cross-border advertising remain a threat to national provisions and have the potential to render them ineffective.

In order to provide a high level of health protection, especially of children, throughout Europe, EHN would recommend that Article 16 be amended to include a general reference to the protection of minor's health and a specific ban on advertising of unhealthy food and drinks to minors in or around television programmes for children [see also the recommendation by the Netherlands Council for Public Health in 'Gezondheid en Gedrag' (Health and Behaviour), 2002].

#### **IV DISCUSSION DOCUMENT ON THEME 5: APPLICATION (RELATED ASPECTS)**

EHN would like to express its concern about self-regulation as an effective enforcement of the Directive. As is pointed out above, it is EHN's opinion that particularly food advertising to children is not respecting the concepts set out in the Directive (Articles 12 and 16).

EHN has noted that some EU Member States have taken measures that are more restrictive than those in the Directive ranging from a total ban on advertising to minors, to bans of certain advertising during certain hours to detailed rules on the content of advertising to children.

EHN believes that an effective way of ensuring that advertising does respect the concepts set out in the Directive is for the national regulatory authorities to introduce a pre-vetting of advertising to minors. Or, at the very least, have an effective monitoring system in place. All national regulatory authorities should include the relevant stakeholders, such as consumer organisation, parents' organisations and public health organisations.

As the national regulatory authorities can only introduce restrictions over and above those in the Directive in their own countries but cannot stop advertising coming from another EU Member State, it is important that EU-wide standards are in place. Therefore and also in response to question II.2 on the Contact Committee's (Article 23a) role in a co-regulation approach, EHN would recommend that the Contact Committee in cooperation with the national regulatory authorities set minimum standards for programmes and advertising to minors.

In case a ban on unhealthy food and soft drinks to children should not be included in the revision of the Television without Frontiers Directive, such minimum standards must ensure that food advertising, particularly to children, does not undermine progress towards national dietary improvements by misleading or confusing viewers, especially

children, or by setting bad examples. Specifically, food advertising should not encourage excessive consumption of foods that are high in fat, sugar and/or salt.

## V LINKS WITH OTHER POLICIES

In its Fourth Report on the application the Television without Frontiers Directive \*\*, the Commission refers to a number of other policies that are connected with European audiovisual policy. Health protection is not included. Concerns about the impact of food advertising to children on their health and health behaviour would indicate that health should be explicitly mentioned in the Directive's recitals. This would also be in line with the Treaty's Article 152 which aims at mainstreaming health into all EU policies.

Specifically, EHN would recommend the below amendments:

*In recital 27: Whereas in order to ensure that interests of consumers as television viewers are fully and properly protected, it is essential for television advertising to be subject to a certain number of minimum rules and standards and that the Member States must maintain the right to set more detailed or stricter rules and in certain circumstances to lay down different conditions for television broadcasters under their jurisdiction;*

EHN would propose to introduce the words '*..to ensure that interests of consumers as television viewers are fully and properly protected and to ensure public health objectives, it is essential ...*' .

*In recital 41:Whereas it is, furthermore, necessary to introduce rules to protect the physical, mental and moral development of minors in programmes and advertising;*

EHN would propose to introduce the words '*.., necessary to introduce rules to protect the physical, mental and moral development of minors and to protect them against negative health consequences in programmes and advertising;*' .

## VI OTHER MEDIA

EHN would like to draw the attention to the need for a debate on extending the provisions in the Television without Frontiers Directive to other relevant media, including the Internet.

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\*\* Fourth Report from the Commission to the Council, The European Parliament, the European Economic and Social Committee and the Committee of the Regions on the application of Directive 89/552/EEC "Television without Frontiers"; COM(2002) 778 final