Impact of advertising on consumer behaviour

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The Committee on Internal Market and Consumer Protection adopted an own-initiative report by Philippe JUVIN (EPP, FR) on the impact of advertising on consumer behaviour.

The report notes that the development of new advertising practices online and via mobile devices is generating a range of problems that need dealing with in order to safeguard a high level of protection for users.

In particular, targeted (contextual, personalised and behavioural) advertising, supposedly tailored to internet users' interests, constitutes a serious attack on the protection of privacy when it involves tracking individuals (through cookies, profiling and geolocation) and has not first been freely and explicitly consented to by the consumer.

Evaluation of the existing legislative framework: the committee considers that the Unfair Practices Directive (Directive 2005/29/EC) provides an essential legal framework for combating misleading and aggressive advertising, in relations between companies and consumers. However, it recognises that **several difficulties with implementation** and interpretation are already apparent (especially regarding the new, more pervasive forms of advertising).

Members call on:

- Member States to provide the competent national authorities with the necessary financial, human and technological means and resources for their effective action;
- the Commission to update, clarify and strengthen its guidelines on the implementation of the Unfair Commercial Practices Directive on a very regular basis and ensure that they are translated into the EU's official languages.

The report welcomes the **joint investigations undertaken by the Member States('EU sweeps')** and calls for further such investigations, the scope of which should be broadened. It calls on the Commission to report to Parliament results of the sweeps and prepare, if necessary, further steps to improve the internal market for consumers.

Members consider the **practice of self-regulation** as a dynamic, flexible and responsible adjunct to the existing legislative framework. They suggest that those Member States that do not yet have self-regulatory bodies should facilitate the establishment of such bodies, on the basis of best practices from other Member States. Self-regulation should complement legislation but not substitute for it.

With respect to the **audiovisual field**, they call on those Member States that have not yet implemented Directive 2010/13/EU (the Audiovisual Media Services Directive) to do so immediately. They await with interest the publication by the Commission of the report on the application of the Audiovisual Media Services Directive, and stress the need to address the use of new technologies (such as IPTV).

Issues arising from the development of the internet and new technologies: the report denounces the development of **'hidden' internet advertising** that is not covered by the Unfair Commercial Practices Directive (consumer-to-consumer relationships), in the form of comments posted on social networks, forums and blogs. It calls on the Commission and the Member States to ensure proper application of the Unfair Commercial Practices Directive in this regard

Members suggest that the Member States encourage the emergence of **forum observers/moderators** who are alert to the dangers of hidden advertising, as well as the development of **information campaigns** aimed at warning consumers of these 'hidden' forms of advertising.

Members call on the Commission to explore the various means (whether legislative or not) and ascertain the technical options at European Union level to effectively implement the following measures:

- carry out an in-depth **study of new advertising practices involving online communication** or portable devices; report the results of the study to Parliament;
- prohibit as soon as possible the systematic, indiscriminate sending of **text message advertisements** to all mobile phone users within the coverage area of an advertising poster equipped with Bluetooth technology without their prior consent;
- ensure that advertising practices respect the **confidentiality of private correspondence** and legislation applicable in this area; prohibit as soon as possible the reading by a third party, particularly for advertising or commercial purposes, of the content of private e-mails;
- require as soon as possible advertisements sent by e-mail to contain an automatic link enabling the recipient to **refuse** all further advertising;
- ensure as soon as possible the application of techniques making it possible to distinguish advertising tracking **cookies**, for which free and explicit prior consent is required, from other cookies;
- ensure that the use of **default settings** for computer systems sold to the public and for social networking services is systematically established in accordance with the strictest data protection standards ('privacy by design');
- develop an EU **website labelling system**, modelled on the European Privacy Seal, certifying a site's compliance with data protection laws; considers that this should include a thorough impact assessment and must avoid duplication of existing labelling systems;
- pay particular attention to **misleading advertising**, including online, in specific sectors such as the selling of food products, pharmaceuticals and medical care, where the health of consumers, on top of their economic interests, is likely to be affected, with potential serious consequences.

Protecting vulnerable groups: the Committee calls on the Commission to conduct a detailed analysis of the impact of misleading and aggressive advertising on vulnerable consumers, in particular children and adolescents, by 2012, and to guarantee the proper application of the relevant laws on the protection of children and adolescents.

The report urges Member States to promote greater protection of vulnerable consumers, such as children, to encourage the media to restrict TV advertising addressed at children during TV programmes watched mainly by the young (such as children's educational programmes, cartoons, etc.).

Educating and informing the various stakeholders: the report stresses the need for consumers to develop a critical attitude to the quality of media content. The Commission is invited to:

- devise information campaigns on consumers' rights in respect of advertising, including the use of their personal data, and to develop educational material explaining how they can protect their privacy on the internet and what they can do to put a stop to any situation that undermines their privacy or dignity;
- develop an EU programme designed to teach children to be wary of advertising, modelled on the United Kingdom's Media Smart initiative;
- require, as soon as possible, the insertion of the clearly readable words **'behavioural advertisement'** into the relevant online advertisements, as well as a window containing a basic explanation of this practice.