



EPC

European
Publishers
Council

**Response from the European Publishers Council
to the public consultation
to support the evaluation of the car labelling Directive**

Transparency Register No: 4456380381-30

15 January 2015

Information about the respondent

1. In what capacity are you completing the questionnaire?

[On behalf of an organisation](#)

5. Please indicate the relevant country of countries of operation

[Other.](#)

[EPC members are active in almost all member states, but the organisation is based in Belgium.](#)

6. Please categorise your organisation as appropriate

[Advertising/publishing/media organisation](#)

7. Is your association/organisation registered in the Transparency Register of the European Commission?

[Transparency Register No: 4456380381-30](#)

8. Please provide your contact information.

Name of the organisation you represent if you are responding on its behalf:

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1. Introduction

The European Publishers Council (EPC) brings together Chairmen and CEOs of Europe's leading media groups representing companies with newspapers, magazines, online publishing, journals, databases, books and broadcasting, communicating with Europe's legislators since 1991 on issues that affect freedom of expression, media diversity, democracy and the health and viability of media in the EU. A list of our members can be found in annex.

The EPC welcomes proportionate initiatives by the European Commission which have an overall aim to protect the environment. EPC has no doubt that the Commission's aim in revising the 1999/94/EC Directive coincides with the aforementioned goal and thus welcomes both the spirit and the ultimate objectives of this initiative; however we need to ensure that the media do not bear any collateral damage. Any disproportionate measure can eventually interfere with our ability properly to inform European citizens and therefore undermine the media's role and contribution to a democratic society.

Because the questionnaire is rather binary in nature we thought it would be useful to take this opportunity to unfold our argumentation alongside providing answers to the questionnaire. In this way we can communicate to the Commission our position and concerns while making clear our intention to cooperate closely in order to find suitable results.

Our response uses the questions in the sections "A. Introduction (Company/Organisation/Authority/Association)" and "C – Specific questions".

As you correctly noted on your consultation page, the revision of this Directive is of direct significance to publishers and the media generally because of the key role that advertising has in supporting independent media and the sustainability and financing of our business models online. It is often easily disregarded that the revenues from advertising finance the media and ensure that they remain free and independent from state influence without reliance upon state finance. It is also often overlooked that the primary role of advertising is to make consumers aware of the existence of various products in the market regardless of other factors. Advertisers and the media that carry advertising take care that it is compliant with all relevant legislation, ensuring consumer protection. However advertising does not need to contain *all* the information about the properties of the product as detailed information is available from other sources. Different consumers value different characteristics and it is up to them to evaluate the overall proposition before purchasing the product. Any attempt to prescribe information to be included in an advertisement risks producing **consumer blindness to the detail**, rendering the advertising ineffective in relation to the objectives of the legislation.

Last, but not least, the media industry is vitally important for both culture and economic growth and revenues from advertising are invested to ensure high quality content, content

diversity, plurality including of publications, websites and programmes about the environment and a healthy way of living.

2. Summary

Following an analysis of the existing legislation and suggested changes by the recent studies, commissioned by the EC, including an extension to all media of rules on advertising content, it is our conviction that the most proportionate response from the European Commission would in fact be to de-regulate the existing section on advertising in the press.

Any revision could be an opportunity to amend the definition of Article 2 (9)¹ on 'promotional literature' by deleting its last part "*advertisements in newspapers, magazines and trade press and posters*". The Tyre Labelling Regulation is a very good precedent with regard to consumer information, where no labelling requirements were included for advertising, but rather for technical and promotional material. This have not made consumers less aware of the tyre labelling and its characteristics.

The best media-neutral solution in a revised Directive would be a general clause containing a recommendation for advertisements to refer to a web-address, an app or a physical place where consumers could find more detailed information, perhaps mentioning the type of information that *could* be included in advertisements, but without any legal obligation to include each and every type of information that would normally be found on a label, in promotional literature or at a showroom (including virtual showrooms). This is also a practice approved by the Commission through the Unfair Commercial Practices Directive² and in our view a more proportionate response than either the existing or future rules.

Television, Radio and Cinema car advertising will never be able to provide more than fleeting information on CO₂ emissions and fuel consumption in just a few seconds. The same is true for "display" advertising on websites such as banners and pop-ups which rather like broadcast advertising attract brief attention, but with the significant added feature that when consumers click on internet advertisements and/or search results, they arrive at websites with more detailed information where they naturally spend more time and they expect to receive all the relevant information.

The media itself carries much editorial information about emissions and climate change generally, providing consumers with a diverse forum for analysis and debate through our pages, websites and broadcast programmes.

¹ Article 2. 9 'promotional literature' means all printed matter used in the marketing, advertising and promotion of vehicles to the general public. It includes, as a minimum, technical manuals, brochures, advertisements in newspapers, magazines and trade press and posters;

² "3. Where the medium used to communicate the commercial practice imposes limitations of space or time, these limitations and any measures taken by the trader to make the information available to consumers by other means shall be taken into account in deciding whether information has been omitted." *Official Journal L 149 , 11/06/2005 P. 0022 - 0039*

Advertising is subject already to harmonised rules to ensure that it is not misleading, making false claims or unfair. Broadcast advertising (linear and non-linear) is additionally subject to the advertising clauses in the Audiovisual Media Services Directive. Furthermore advertising is subject to self-regulatory codes (more information are available from the European Advertising Standards Alliance www.easa-alliance.org).

Where Member States have already disclosed their tax policy for car owners on fuel consumption and CO2 emissions, this has provided additional incentives for car makers and sellers to focus their car advertising campaigns on these environmental issues. Therefore, as long as clear tax factors apply to fuel consumption and CO2 emissions, a de-regulated advertising market will bring better results in terms of environmental consciousness and energy savings.

3. Some questions from the Survey

20. How effective was the Directive in encouraging car manufacturers to introduce more efficient vehicles in the market?

Do not know.

We all know however that some manufacturers used illegal means to claim lower emissions in order to display a particular category of label. This resulted in both fraud and damage to the environment, while misleading consumers.

21. How has the Directive impacted the supply of more fuel efficient vehicles, i.e. increased consumer choice for more fuel efficient cars?

Do not know.

Technology is progressing every day and we cannot say that fuel efficient vehicles are a result of the Directive and not of the car-makers research and competition between them to market better and more efficient cars.

32. Member States are currently free to develop their own label designs and there is currently a range of different labels across Member States. To what extent do you agree that the level of flexibility that the Directive provides is appropriate to meet the objectives of the Directive?

Do not know

Increasingly, the internet has proven to be the consumers' most relevant Decision Support System in terms of gathering information on car buying, leasing or renting. This is because it has the ability simultaneously to advertise, label and provide fully detailed and pre-defined organised information on products and services – in this case, cars. This means that online media, car makers and sellers are already providing search tools that allow consumers to choose a specific model based on a relevant set of features, all packaged together in terms of a "TCO" - total cost to own. As differential levels of tax on fuel consumption and CO2 emissions also exist, these features will be of crucial relevance to TCO and, as a result, producers will disclose this information at various points in the information chain,

regardless of legislation. Final buying decisions will take all of this into account together with information provided about purchase price, financing offers and insurance. Any attempt to prescribe information to be included in an advertisement risks producing **consumer blindness to the detail**, rendering the advertising ineffective in relation to the objectives of the legislation. Moreover, technical specifications can be fully included in any given website not only as a complement to media advertising but also as a customer service tool.

33. Please indicate the extent to which you agree or disagree with the following statement: There is still a need for EU legislation to inform consumers of the CO2 performance and fuel consumption of new cars.

Slightly agree

Mandatory harmonised emission category labelling in the showroom of the car seller or in cases where the buyer cannot be expected to see the car before buying it in the relevant communication made available before fulfilment of the contract, will guarantee that any car buyer will be clearly and easily informed about the climate impact and emission category before their purchase decision.

This obviates the need for similar strict rules to be imposed on the content of advertising, thereby distinguishing clearly between the role of labelling and the separate role of advertising in informing the consumer.

In our view the question of what information is included in an advertisement should be left to advertisers to decide, so long as the information is not misleading or making false claims. Arguably in an information-rich society, with a diversity of sources of information available particularly on the internet, a de-regulation of this directive would be wholly justified and desirable. Further rules would be disproportionate to the public policy objectives of this legislation and injurious to the financial viability of the press. It is of prime importance to remember the difference between providing information through labelling, brochures, company own websites, and through advertising.

Advertising is not labelling and should not be further regulated in this way as to do so would bring no obvious benefits to consumers but would carry massive disadvantage to media advertising. The imposition through legislation of standardised information tools, symbols and required wording makes the advertising less attractive and eventually obsolete. The role of advertising is to promote the various brands and key features of a product or service since there is a high level of competition among the manufacturers – particularly in mature markets such as cars, in the nature and quality of products and services they provide. Advertising's role 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 detail.

Meanwhile we ask the Commission to consider the relative impact of advertising and of editorial content on the consumers' hearts and minds. There are numerous publications and articles television and radio programmes which promote ecological consciousness,

cultivate discussions around climate changes, healthy lifestyles - raising debates about many societal issues, all of which is funded by advertising revenues.

No one buys a car just on the basis of what they saw in an advertisement! The decision making process is more complex which involves other phases of information gathering and assimilation.

Finally, a free and independent press is the natural ally of the European Commission as we provide a forum for analysis and debate that is necessary for any sustainable change of mind and behaviour of citizens in Europe.



Brussels, 15 January 2015

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