

25 July 1997

A4-0258/97

REPORT

on discrimination against women in advertising

Committee on Women's Rights

Rapporteur: Mrs Marlene Lenz

PE 221.370/Fin.

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By letter of 22 October 1996 the Committee on Women's Rights requested permission to draw up a report on discrimination against women in advertising.

At the sitting 15 November 1996 of the President of Parliament announced that the Conference of Presidents had given the Committee on Women's Rights authorization to draw up a report on this subject.

The Committee on Women's Rights had appointed Mrs Marlene Lenz rapporteur at its meeting of 2 July 1996.

At its meeting of 26/27 September 1995 it decided pursuant to Article 45 to the Rules of Procedure to include the following motion for a resolution in its report:

- B4-0545/95 by Mrs Lissy Gröner on discrimination against women in advertising, referred on 13 July 1995 to the Committee on Women's Rights as the committee responsible.

It considered the draft report at its meetings of 24 February 1997, 17 June 1997 and 23 July 1997.

At the latter meeting it adopted the motion for a resolution resolution unanimously.

The following took part in the vote: van Dijk, chairperson; Torres Marques, vice-chairperson; Lenz, rapporteur; Baldi; Blak (for Crawley); Colombo Svevo; d'Ancona; Flemming (for Banotti); Garcia Arias (for Frutos Gama); Ghilardotti; Grossetête; Gröner; Hawlicek; Heinisch (for Lulling); Keppelhoff-Wiechert (for Menrad); Kerr (for Crawley); Kestelijn-Sierens; Kokkola; Larive; Mann; McNally; Novo (art. 138.2 for Eriksson); Oddy (art. 138.2 for Ahlqvist); Oomen-Ruijten (for Peijs); Van Lancker; Waddington.

The report was tabled on 25 July 1997 .

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

A
MOTION FOR A RESOLUTION

Resolution on discrimination against women in advertising

The European Parliament,

- having regard to the Universal Declaration of Human Rights,
- having regard to Articles 1 and 5 of the UN Convention on the Elimination of All Forms of Discrimination against Women,
- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms,
- having regard to the Vienna Human Rights Conference of 1993,
- having regard to the Amsterdam Draft Treaty, with particular reference to Article F(1) TEU, Article 2 TEU and Article 6a EC Treaty ⁽¹⁾,
- having regard to Article 1 of the declaration on Human Rights and Fundamental Freedoms,
- having regard to the recommendations of the Council of Europe of 1984 on equality of men and women in the media⁽²⁾ and the guidelines for television advertising⁽³⁾ and of 5 February 1985 on statutory protection against sexual discrimination⁽⁴⁾,
- having regard to Article 12 of the directive coordinating certain provisions laid down by law, regulation or administrative action in the Member States concerning the pursuit of television broadcasting activities (television directive)⁽⁵⁾,
- having regard to Article 7 of the European Convention of 5 May 1989 on Transfrontier Television,
- having regard to the Fourth World Women's Conference in Peking in 1995,
- having regard to the resolution of the Social Council of 5 October 1995 on the image of women and men portrayed in advertising and the media⁽⁶⁾,

⁽¹⁾ CONF4001/97

⁽²⁾ Council of Europe Recommendation No R (84) 17

⁽³⁾ Council of Europe Recommendation No R (84) 3

⁽⁴⁾ Council of Europe Recommendation No R (85) 2

⁽⁵⁾ 89/552/EEC of 3 October 1989, OJ L 298 of 17.10.1989

⁽⁶⁾ 95/C 296/06, OJ C 296 of 10.11.1995

- having regard to the European Commission's Green Paper on commercial communications in the Internal Market⁽¹⁾,
 - having regard to the Commission's Green Paper on the protection of minors and human dignity in audiovisual and information services⁽²⁾,
 - having regard to the Commission's communication on illegal and harmful content on the Internet⁽³⁾ and having regard to Parliament's resolution of 24 April 1997 on this subject⁽⁴⁾,
 - having regard to its resolution of 17 December 1993 on pornography⁽⁵⁾,
 - having regard to the Charter signed in Rome on 18 May 1996 by the women ministers of the EU Member States, its resolution of 24 May 1996 on the balanced participation of women and men in decision-making ⁽⁶⁾ and the Council Recommendation of 12 September 1996 on an equal role for men and women in the decision-making process⁽⁷⁾,
 - having regard to its resolution of 14 October 1987 on the depiction and position of women in the mass media⁽⁸⁾,
 - having regard to the motion for a resolution by Mrs Gröner on discrimination against women in advertising (B4-0545/95),
 - having regard to Article 148 of its Rules of Procedure,
 - having regard to the report of the Committee on Women's Rights (A4-0258/97),
- A. whereas discrimination against women is a violation of human dignity and the principle of equality,
- B. whereas the image of women in advertising can, in some instances, be the subject of criticism if the advertising encourages the dissemination of sexist stereotypes, the preservation of

⁽¹⁾ COM(96) 192 of 8.5.1996

⁽²⁾ COM(96) 483 of 16.10.1996

⁽³⁾ COM(96) 487 of 16.10.1996

⁽⁴⁾ Doc. A4-0098/97, see Minutes of 24.4.1997

⁽⁵⁾ OJ C 20 of 24.1.1994, p. 546

⁽⁶⁾ OJ C 166, 10.6.96, pp. 269-276

⁽⁷⁾ 7047/2/96/rev. 2

⁽⁸⁾ OJ C 305 of 16.11.1987

- clichés about the roles of the sexes and degrading depiction of the female body which infringe human dignity,
- C. stressing the fact that the gratuitous exploitation of the female body for economic ends can be a particularly serious form of violation of the dignity of women,
 - D. convinced that by presenting role models the media can influence social behaviour and by showing the variety of roles of the different sexes they can help change attitudes and achieve equality,
 - E. convinced that the role of women today is characterized by variety and that any stereotypical allocation of roles runs counter to the everyday reality of women,
 - F. having regard to the fact that there are no generally valid criteria for sex-discriminatory advertising,
 - G. aware that the way advertising messages come across may also be gender-oriented and culturally dependent,
 - H. whereas advertising also reflects social aspirations and can have an effect through positive example,
 - I. whereas advertising can be an instrument in the fight against racism, sexism and discrimination by making more use of the different facets of the multicultural society of which we are all part,
 - J. aware that extreme slogans and frivolous texts are typical of modern advertising,
 - K. whereas there is evidence of a change in the image of women in accordance with social change and whereas there has been a decrease in the frequency of complaints overall,
 - L. in the expectation that the new audiovisual and information services, particularly in the Internet, will mean a significant increase in marketing activities and whereas the content of advertising, hitherto clearly defined, is assuming a hybrid form,
 - M. whereas the new communication and multimedia systems have changed regulations on the media which are based on public control mechanisms,
 - N. whereas the New Media have also led to a fundamental change in the basic context of the legal protection of human dignity, and new forms of legal protection are already under discussion,
 - O. concerned at the portrayal of violence in the New Media,
 - P. whereas certain forms of pornography violate human dignity, particularly when they are accompanied by images of sexual violence and force,

- Q. convinced that the Member States' legislation and European legislation on protection against the demeaning portrayal of women in the media is inadequate,
 - R. in the knowledge that although general national advertising provisions include the protection of public interests, including protection of human rights and protection against anti-social behaviour, they are seldom concerned with sexual discrimination,
 - S. aware that national restrictions on compliance with social norms and national rules on self-regulation differ quite considerably,
 - T. convinced that the fundamental right of freedom of expression can be restricted, subject to Article 10(2) of the European Human Rights Convention, in order to protect public morality,
 - U. convinced that the great importance of human dignity requires that it must be respected in advertising, too, that infringement of such dignity and discrimination against either sex in order to promote sales of goods is unacceptable and that there is a need to draw limits on acceptability.
1. Confirms that the human rights of women are an inalienable, integral and indivisible part of general human rights, and recalls the EU's declaration on the World Conference on Women of 1995 in Peking;

European Union

2. Welcomes that fact that the call for the equal status of women and men as a Community objective and non-discrimination on grounds of sex have been included in the Amsterdam Draft Treaty but is disappointed at the decision-making procedures that have been chosen;
3. Is of the opinion that the legal protection of fundamental rights in the Community would be strengthened by the Community's accession to the European Human Rights Convention;

Member States

4. Calls for international pacts and conventions and for non-discrimination to be transposed in law and practice;
5. Calls for statutory measures to prevent any form of pornography in the media and in advertising and for a ban on advertising for pornographic products and sex tourism;

Advertising industry and the advertising media

6. Calls on the media to perform their statutory task of respecting human dignity and implementing equality between the sexes;
7. Urges the media to contribute to the required change of attitudes, with the aim of bringing about genuine equality, rather than simply transmitting images which tend to perpetuate or exacerbate the existing discriminatory situation;

8. Rejects the dissemination of images of women which denigrate the dignity of women or their equality with the male sex in commercial communication;
9. Calls a fight against sexist stereotypes in the contents, images and language of advertising;
10. Calls on the advertising industry to relinquish, specifically and in its entirety, the denigration of women as sex objects for men through technical means and visual representations such as reducing the female role to external beauty and sexual willingness;
11. Encourages the advertising industry to be more constructively creative in their advertisements in order to stress the importance of women to society, at work, in the family and in public life;
12. Calls on the European umbrella organization of the advertising industry and on the Commission to use cross-border information and awareness measures for the media and the advertising industry to encourage a change in the values which determine and which can change the image of women;
13. Calls once again for balanced participation by women and men at the production and decision-taking levels of the advertising industry and the media, in order to strengthen the influence of women on the subject matter of advertising and programmes and hence to have a say in the decision-making process at an early stage;
14. Encourages women in the advertising industry to establish their own and/or alternative advertising agencies and to carry out their advertising activities under the motto of non-discrimination and the equality of the sexes with original and modern means ;
15. Recommends the setting up of a commission on the ethical aspects of television and advertising to report to the television councils with the task of acting as a neutral monitoring body and drawing up a code of conduct;

Self-regulatory bodies in the advertising industry

16. Calls on the advertising sector to ensure that its national and European self-regulatory procedures are publicly available, published and transparent, and that individual consumers can complain easily, without cost to themselves and in expectation of a prompt and satisfactory response; encourages the industries involved in the self-regulation to introduce minimum standards for non-discriminatory advertising;
17. Welcomes the fact that the latest revision (April 1997) of the International Code of Advertising Practice now includes a ban on violating human dignity and a ban on encouraging violence and unlawful or objectionable behaviour, and recommends that the ICC carry out further reforms against the violation of women's rights;
18. Is of the opinion that national advertising discipline (powers of the supervisory bodies and advertising/disciplinary rules of behaviour) should be harmonized EU-wide, with greater convergence of national rules and advertising restrictions at EU level;

19. Urges the self-regulatory bodies to reach an agreement on efficient forms of monitoring advertising in respect of the New Media;

European Commission

20. Suggests that the Commission could set up an advisory committee for all media (European Media Council) with the aim of drawing up, with the participation of all parties concerned, a self-regulation for the advertising industry against any form of discrimination;
21. Calls on the Commission to continue its efforts aimed at achieving a realistic portrayal in the media and in advertising of modern women playing an active role in the world of work and undertaking tasks in society and to include advertising in its studies on the new understanding of the rules of the sexes;
22. Suggests to the Commission that a European advertising prize should be awarded by analogy with the NIKI prize;
23. Urges the Commission to revise the existing European legal framework for advertising and stresses the necessity for greater convergence of national rules to guarantee, at the same time, an appropriate level of protection of the common interest;
24. Calls on the Commission to transpose the action platform of Peking in respect of women and the media and to set out the results in the annual report;
25. Calls on the Commission to encourage cooperation between professional associations, women's organization and non-governmental organizations active at Community level in advertising and the media;
26. Specifically supports the Commission in its plans to create a coherent legal framework for the protection of human dignity and against abuse of the new audiovisual and information service;
27. Instructs its President to forward this resolution, the explanatory statement and the annexes to the Council, the Commission and the governments and parliaments of the Member States, the advertising regulatory bodies of the Member States and the federations of producers of advertising organized at European level.

B EXPLANATORY STATEMENT

INTRODUCTION

The image of women in commercial advertising is a constant source of criticism. This subject was partly covered in the Lenz report of 1987 on the presentation and role of women in the mass media.

As long ago as 1984 the Council of Europe recommended the drawing up of common European principles for advertising as a means of protecting against the discriminatory portrayal of women. The fourth world conference of women in Peking in 1995 called for an end to persistent sexist stereotypes and negative images of women in commercial communications at national and international level. In 1985 the Council of Social Affairs called on the media and persons working in advertising to fulfil to their responsibility to respect human dignity and to avoid discrimination.

In providing role models, the media can influence social behaviour. By tacking the diversity of roles of the sexes they can help bring about equality between women and men. The clichéd view of men as bread-winners, business-like and productive, whereas women are portrayed as domestic, dependent and passive, does not reflect the social reality in Europe. In its fourth action programme, the Commission stresses the need for a change in attitudes. Success in creating a new awareness of attitudes and values can change the image of women in advertising.

The New Media have a particular responsibility since they have led to a fundamental change in the media regulations based on public supervisory mechanisms over the last 10 years.

ADVERTISING - TODAY

Advertising in the media is currently running worldwide at more than \$200 billion. In Germany, of the DM 41 bn investments in advertising overall, DM 20 bn are spent on the media alone: the print media are financed to the tune of 70%, public broadcasting companies such as ARD by 30%, ZDF by 43%, and commercial broadcasting stations for 100% by advertising revenue. The largest budget for advertising for women covers cosmetics and underwear. With consumer goods advertising is increasingly directed more and more at both sexes. On the one hand, advertising is limited nationally/locally and has to take account of traditional and cultural sectors; on the other hand, the globalization of markets means that advertising is becoming increasingly more international and more standardized. In the internal market the proportion of cross-border advertising is increasing, resulting in advertising measures for several European countries and cross-border advertising media. The choice of media for advertising depends largely on the target group. What is being advertised has to respect cultural differences. Accordingly, or so advertising agencies claim, there is little prospect of launching standardized European advertising campaigns. In the UK, for example, there is no possibility of advertising with naked representations of the two sexes.

More intensive competition and its corollary, an information overload for the consumer, means that advertising is becoming more aggressive; whether it is irony, eroticism, sensitive subjects or insults, the trend is towards provocation. This is because 'only what is irritating finds its way into the consciousness of the target group. In the search for new gags advertisers often run the risk

of treading on someone's toes(1). 'The limits are being exceeded more and more often, but not significantly so, since advertisers need to worry about their reputations', says a spokesman for the German advertising Council(2). Advertisers who deliberately set out not to take peoples feelings into account are in the minority. Moreover, nowadays consumers (consumer organizations and women's organizations) are better organized than in the past. The consumer boycott of Benetton shops in the early 1990s resulted in the closure of 200 branches.

The most recent advertising campaign of a traditional textile company on the German ARD station at peak viewing time produced a clear reaction. The campaign was akin to telephone sex; slogans such as 'my slip is waiting for your call' and 'which side, left or right' elicited the following comments from the head of the firm: 'we don't want to frighten our loyal customers, we just want to revamp the image. Young and cheeky' (or tasteless?)(3).

At a prêt-à-porter fashion show in Paris one designer sent his model onto the catwalk wearing only a mink. The public were shocked. The poster for the film Larry Flynt, showing a man in a crucified attitude by the over life-size lower half of a woman's body wearing a tanga, had to be withdrawn shortly after it appeared in France following a court ruling sought by catholics and, in Germany, on the recommendation of the advertising council. It had already been banned in the USA. In Holland, too, there was a large protest lobby.

STATISTICS - The main focus of criticism

According to a survey carried out by the European alliance for advertising self-regulation (EASA) in 1992 to 1995, in 11 out of 14 EU Member States, most complaints to advertising disciplinary bodies concerned images of women (not in Denmark, Greece or Luxembourg). (Complaints relating to the portrayal of men were reported in Belgium, Ireland, Spain and the UK). All in all, they accounted for 5% of total complaints about advertising. The highest percentages were in Austria, Germany and Spain (25% to 51%).

In Germany the advertising council reported an increase in extreme positions. In 1995 it rejected 75% of the complaints as being unfounded.

Complaints about demeaning women and violating women's dignity are common throughout the EU. There is a greater sensitivity about violence. (In the case of complaints about the portrayal of men, accusations are on the lines of 'stupid and incompetent'.) Criticism of the portrayal of women ranges from traditional clichés about women's role, serious errors of taste, using women as sex objects to promote sales, stereotypical portrayal of sexual relations to the dominance of men over women, the submissiveness of women to men and men's potential to inflict violence on women.

According to the annual report of the German advertising council for 1995 and 1996(4) top of the league is the textiles sector, followed by the automotive and food industries. In Germany the most prominent form of advertising is in the printed media (71% in 1995). Of the 160 complaints in 1995, 40 were concerned with magazines, 25 with newspapers, 22 with posters, 132 with specialist journals, and 13 with catalogues and the like. TV spots were the subject of criticism on 24 occasions; public monitoring has a much greater influence here. The complaints came from individuals, women's organizations, equal opportunities bodies and trade unions. Experience shows that most advertisers respond in a positive way, and this has been confirmed by the experience of

women's organizations (Terre des Femmes in Germany). In the period 1972-1996, 95% of all complaints forwarded by the German supervisory body to the companies were either modified or withdrawn.

DEFINITION

There are no generally valid criteria for sexual discrimination in advertising. The concept of morality is a fluid one and provocation is something which people experience in different ways. International legal standards, court rulings, complaints, guidelines issued by national supervisory bodies and studies provide yardsticks for evaluation.

The UN Convention on the Elimination of All Forms of Discrimination against Women describes as discriminatory any distinction based on sex, which has an adverse effect on the recognition of human rights and fundamental freedoms of women, and prejudices and practices based on the idea of the superiority or inferiority of either sex or any stereotypical distribution of the roles of men and women.

The Federal Court of Justice in Germany described an advertisement as discriminatory on the grounds that it violated the dignity of women, because it gave the impression of 'sexual availability' of the woman(5). A regional court had rejected the complaints on the grounds that for modern advertising drastic slogans, frivolous texts and images of a sexual nature were characteristics of modern advertising and there were no sexual overtones to the obvious suggestiveness.

According to the German advertising council(6) 'the low-key obviously humiliating sexual presentation of women' is too vague a definition to have any legal clarity. Accordingly, when it exercises discipline over the advertising industry it is guided by prevailing views on morals and public decency.

According to past rulings of the advertising council, the presentation of a woman in a traditional or obsolete role, as 'an eye catcher' or 'decoration' or with sexual or erotic reference is neither degrading nor discriminatory as such. There need to be special circumstances at play as well, for example infringing the general feeling of decency(7).

For example, the German advertising council has reprimanded an advertisement showing a man's hands on a naked woman's breasts with the slogan 'Fun for him and a blouse for you'. It criticised this on the grounds of using sexuality as a means to encourage sales.(8) Or an advertisement for alcohol with a woman trapped in a net. The heading to the advertisement was the sentence 'Fancy opening one?'. The advertising council's ruling was that the ambiguity of the slogan referred to the sexual availability of the woman. It also criticised a portrayal of a black woman, caught like a wild animal in a net. The advertising body said about an advertisement for a publishing house which showed a scantily dressed woman squatting that this was a particularly tasteless way of discriminating against women for commercial ends.(9)

The advertising council has been less ready to object to the 'differentiated discrimination' of women. The Federal Ministry of Women and the Family describes this as advertising in which women appear as sole consumers of household products. The German advertising council says that such

attitudes ignore reality. It has rejected socially extreme positions of advertising critics(10), for example a complaint against an advertisement for an airline, on the grounds that there was no objection in principle if a foreign company referred in its advertisements to social habits in its country of origin, even if the latter could not be fully accepted in accordance with European criteria (letter in reply to the women's rights organization 'Terre des Femmes', 18 September 1991).

STUDIES AND ANALYSES

In 1979 the portrayal of female bodies in advertising showed that - in contrast to men - women must be beautiful, they should not be fat or old, they are exhibitionists, stupid or bad and are better able to serve than to have a career(11).

In 1987 there was change in image. Advertising strategists adopted a new type of woman: the little wife at home was out, and working women were more to the fore. Blatantly anti-women advertising and hard sex were on the decline(12).

However, a comparison of two studies (1979 and 1988) on television advertising showed that there was little change in two types of women and their roles: the caring housewife and mother and the seductive, fashionable dream woman. What was new was the youthful androgynous image, with self-awareness and a job as signs of emancipation(13).

Even more recent is advertising with 'pseudo-feminist' slogans - pseudo-feminist because they are nevertheless sexist(14). Sexist language is seen as a barrier to doing away with socio-cultural, discriminatory patterns of behaviour(15).

A comparison of roles in 1784 advertisements (1969 to 1988) shows that superficially there is a narrowing gap between women's and men's roles (presentation of professional success), although the latent gender-specific features are largely constant (e.g. passive posture of women)(16).

Analysis of advertisements with sexual themes illustrates the change in values in advertising: almost all areas have become 'sexualized'; while sexuality gives the appearance of openness, it conceals traditional role patterns and values(17).

The portrayal of women in TV advertising has changed little. It does not reflect the reality of women's lives, but continues to provide stereotypes. Women are fixed in dependent roles and obliged to be young and attractive(18).

A detailed analysis of an advertisement for perfume in terms of portrayal of the sexes shows that the advertisement not only accepts the usual sexual clichés, it goes even further: its visual messages suggest male violence, a lack of feeling and female subjection(19).

Despite a certain amount of originality and modernity there is evidence of some regression in the early 1990s. There is little evidence of new fathers, and women appeared in their new 'freedom', more beautiful than ever, with the washing powder in their hands(20). The old stereotypes have been revitalised in a new form: sexism is gaining ground again(21).

By contrast, an analysis carried out in 1996 concludes that in addition to the preservation of traditional role clichés, there have been changes in the portrayal of women in accordance with social change. They reflect the social reality while complementing traditional gender-specific conventions. The image of women was examined in 46 TV advertisements between 1954 and 1991(22).

HOW ADVERTISEMENTS COME ACROSS

Studies have concluded that the way advertising comes across depends on the recipient's own value-system i.e. the image the women have of themselves. Accordingly, it is unusual for advertisements to be generally regarded by women as discriminatory against women(23). Views on discriminatory advertising are also gender-specific. Men rarely regard 'eye-catching' advertising using women as discriminatory. Women as eternal temptresses and as sex objects with no will of their own are regarded by many men as a natural feature; they consider the criticism to be a sign of prudery.

According to opinion surveys, 70% of the viewing public are nevertheless critical of the marketing of the female body, the lack of clever, strong female figures, the one-sidedness, sexual clichés, sexism, the 'dumb blonde' image of women. This is not a question of sexual morals but of the message about women. Advertisers and people responsible for programmes are apparently all too often the victims of the myth that using women's bodies will push up their ratings(24).

Cultural features are revealed in response to the campaign for a mineral water manufacturer which produced no negative reaction three years ago in France. In Belgium, by contrast, the firm withdrew an advertisement in July 1996. The European Women's' Lobby had successfully called for a consumer boycott. What they took objection to were three bare-breasted women in 1950s style, their nipples covered with bottle tops. The European Women's' Lobby said this was a clear case of discriminatory advertising since there was no connection between the women and the product.

A similar fate befell a perfume advertisement shown to participants in a seminar organized by the Council of Europe. Two women psychiatrists, one from Greece and one from Spain, reacted in different ways to the portrayal of a woman leaning on a balcony looking out to sea: while one saw a strong, independent woman, the other saw an archetypal representative of a woman hopelessly trapped in her femininity. It is difficult to reach agreement on positive and negative images of women.

PRIMARY LEGISLATION

Standards in international law covering protection of human dignity are to be found in the Charter of the United Nations, the Universal Declaration of Human Rights and the UN Convention on the Elimination of All Forms of Discrimination against Women.

In the general provisions of the EU Treaty the Union undertakes to respect the fundamental rights set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). Women's rights are an indivisible part of human rights.

Legislation connected with advertising, information and pornography touch on fundamental freedoms. Protection of fundamental freedoms at Community level is through the common

principles of national legal systems. The accession by the Community to the ECHR would strengthen the legal protection of fundamental values(25). Parliament has been calling, since 1979, for the inclusion of a list of fundamental freedoms in the Community Treaties.

The demands made by the Women's' committee are reflected in the proposal of the Intergovernmental Conference (Dublin II) to include a non-discrimination clause in the revised Treaties.

SECONDARY LEGISLATION

The most important European legal instrument for television advertising is the television directive on the coordination of existing national laws and administrative provisions on the pursuit of television broadcasting activities. It does not touch on the competence of the Member States and relevant national bodies. It coordinates certain areas, including television advertising, which may not infringe human dignity or contain discrimination on grounds of sex. When the directive was drawn up it was assumed that Article 12 would contain the most important criteria for rules to be generally respected by the trade. However, because of the vague wording the directive has not once been used in court in any instance of discriminatory advertising. This therefore raises the question of whether European legislation is an appropriate means of providing protection against the disparaging portrayal of women(26).

NATIONAL ADVERTISING RULES AND SUPERVISORY BODIES

Apart from the general legislation in most Member States banning discrimination on the grounds of sex (France, Italy, Luxembourg, Austria and the Netherlands), some countries have adopted general laws on discrimination in advertising (Belgium, Greece, Spain and the United Kingdom). In its rulings on discriminatory advertising, the German Supreme Court applies the clause on immorality in the law on unfair advertising. It operates on the principle that violating the dignity of, or discriminating against, a section of the population to promote the sales of goods fails to comply with minimum standards which should be observed of what can be (just about) tolerated in accordance with public opinion and as a means of protection of all participants in advertising. Accordingly it evaluates anti-women statements not only in accordance with general ethical views on morality or taste, but more importantly in accordance with what the law deems to be moral(27).

Public bodies monitoring complaints against discriminatory advertising exist in Denmark, Portugal, United Kingdom and Belgium (radio and television).

Generally speaking, rules on advertising contain bans on advertisement of an obscene, immoral or objectionable nature, and they are concerned with the protection of public interest, i.e. protection of human rights and protection against anti-social behaviour. This includes maintaining standards of decency and protecting human dignity. They are rarely concerned with bans on sexual discrimination or the avoidance of stereotypes.

The degree of restrictions on the protection the general interests allowed by national rules and measures to maintain social standards in questions of taste and decency differ quite considerably. In the context of the free movement of services, the Commission sees this lack of unanimity as grounds for taking action. In its Green Paper on commercial communications, it points out on the

basis of results of opinion surveys that the function of the internal market in this area cannot be guaranteed. It expects that the increase in cross-border broadcasting of commercial advertising by the new media will result in an even greater lack of unanimity in future legal measures. It intends to review the European legislative framework on advertising (in the light of the principle of proportionality), to remove obstacles to advertising and at the same time to guarantee an equivalent level of protection of the common interest. The example of the directive on misleading advertising shows, the Commission says, that differences in restrictions imposed by Member States are based on the minimal degree of harmonization of the directive or on the definition of the concept of 'misleading'. The TV directive provides no definition whatsoever of sexual discrimination.

Harmonization of advertising rules is something which consumer organizations support. Advertisers themselves and the national disciplinary bodies are more interested in self-regulation, while respecting the principle of mutual recognition.

PUBLIC BROADCASTING AUTHORITIES

Very few public broadcasting authorities in the EU have written guidelines on self-regulation. Most have general indications on sex-specific representations, but rarely are there any specific guidelines on avoiding stereotypes in words and pictures(28). There has been some discussion of setting up mutual monitoring bodies (29) in the form of advertising councils with equal representation of men and women (30) or television councils of the sort that exist in Spain (31). The Group 'Imago van den Vrouw' in the Belgian BRT and the group in the Netherlands 'Vrouw in Beeld' are examples to be borne in mind. At the first reading on the television directive Parliament called for a media council and a separate Commission on the ethical aspects of television.

The Commission's steering committee on equality in broadcasting, which is made up of representatives of the main radio and television authorities in Europe, has been working since 1986 on positive action to promote women in the production of programmes. The NIKI prize, established in 1988 (in response to the Lenz report) serves the same purpose. Prizes for good or bad programmes attract the interest of broadcasters. National examples are the Prix Egalia of Swedish television (SVT) for the programme which has done most to encourage equal opportunities, and the 'Saure Gurke' awarded by the Group 'Frauen in den Medien' in German broadcasting organizations to the most repulsive advertisement.

BODIES CONCERNED WITH ADVERTISING DISCIPLINE

With a view to establishing voluntary self-control the advertising industry (advertisers, advertising agencies and the media) in all the EU countries have set up supervisory bodies adopting a responsible approach to counteracting advertising statements and portrayals which are undesirable from the point of view of enterprises, the advertising industry and consumers.

In handling complaints on advertisements, these bodies rely on national rules on advertising, their own codes of conduct, social reality and the principles of the (ethical) code of advertising practice adopted by the International Chamber of Commerce (ICC). In accordance with the ICC code advertising should be legal, decent, honest and true. Advertising which fails to respect these principles should be banned or discontinued in order to protect public opinion and fair competition. In April 1997 guidelines on the representation of sexes were included: advertising should not

contain any statements or visual representations which infringe human dignity or feelings of decency or which represent discrimination on the grounds of sex.

Depending on the country, the advertising disciplinary bodies monitor advertisements a priori for compliance with standards, give recommendations, examine complaints, issue public reprimands or oblige advertisers to withdraw their advertising. Media which carry advertisements are requested not to publish advertisements which have given rise to criticism.

According to a survey by the EASA(32) most states say that they have no significant problems with compliance with the code on the portrayal of the sexes. In Austria and Ireland protection against statements hostile to women have recently been included, too. It appears from the Commission's Green Paper that the supervisory bodies see no need for a Community-wide harmonization of codes of conduct. In Austria and Germany the number of women in the supervisory bodies has been increased. In the Netherlands and the United Kingdom women head the bodies.

EUROPEAN MONITORING

The European advertising industry umbrella organization, the European Advertising Tripartite (EAT) was set up the European Advertising Standards Authority (EASA) in 1992. It covers 25 advertising disciplinary bodies in 22 countries, including all EU states. The EASA is not a self-regulatory body, since it has no regulatory function. It does not administer a code at European level. Its task is to promote effective advertising discipline, Europe-wide, to coordinate cross-border complaints and to provide a forum for discussion. The aim of the EASA is to achieve, through convergence, European homogenization by means of an advisory role in shaping national control mechanisms and through codes of conduct. Its attitude is that improving advertising discipline at national and European level is better than specific European legislation. In the event of complaints about cross-border advertising, it checks whether the advertisement is in accordance with the advertising rules and codes of behaviour in the country of origin of the media carrying the advertisement. The national self-disciplinary bodies which are informed by the EASA of the complaints are as a matter of principle responsible for judging the advertisement. The last resort of the EASA is a Europe-wide Euro-ad-alert for particularly serious violations by advertisers.

In the period 1992-1996 the EASA dealt with 127 complaints in connection with cross-border advertising (1994: 14, 1995: 51). The complaints were mainly to deal with direct advertising, since this is being used for cross-border purposes to an increasing extent. During 1993 and 1995 there were two complaints every year about the portrayal of the sexes, mostly naked women. All in all, according to the EASA, the portrayal of the sexes is not a major cause of complaint.

NEW MEDIA

The international, decentralized, individually oriented approach to communication of the New Media, which are difficult to supervise, has meant a fundamental change in the context of the legal protection of human dignity. National and European legislation is needed to combat abuse by the new media in the form of the dissemination of illegal advertising. At European level only Article 2 of the television directive and Article 7 of the European Convention on Transfrontier Television provide some degree of protection in respect of the traditional media.

The European Parliament has repeatedly condemned the increase in the presentation of violence in the electronic media and pornography in sex advertising and in certain television advertisements. In 1993 it called on the film, television and print media industries to use self-regulation as a way of preventing pornography.

Pornographic products and sex tourism should be subject to an advertising ban. The convergence of national rules, common standards for systems for classifying advertisements, self-regulatory codes for the New media and consciousness-raising measures for users, and possible the setting up of a joint framework for self-supervision and establishment of European mechanisms for arbitration and disputes are things that must be tackled. In its most recent report on the information society the European Parliament calls for substantial legislation on the media and communication and for standard, coordinated supervisory standards and authorities for all media (33).

In accordance with the principles of advertising practice in the traditional sector of marketing, the ICC is currently working on special guidelines for electronic and interactive commercial communications as a means of assessing whether advertisements are in line with the law of the country in which they originate. The principles are: social responsibility, fair advertising and consumer confidence. Any advertisements which can be deemed to be pornographic, violent, racist or sexist must be avoided.

LIMITS TO ACTION - FREEDOM OF OPINION AND FREEDOM OF THE PRESS

In discussing the extent to which measures at national and European level can be taken to strengthen protection against discrimination against women in advertising and in solving the issue of the extent to which freedom of opinion must be borne in mind in assessing the admissibility of an advertisement, the fundamental freedom of human dignity and the principle of equality need to be brought in line with the fundamental rights of freedom of opinion.

Article 19 of the UN Covenant on Civil and Political rights and Article 10(2) of the ECHR permit statutory restrictions on freedom of opinion, freedom of press and freedom of broadcasting which are included in national constitutions - and this includes commercial communications - in the interest of protection of public morality.

ENDNOTES

- (1) Jean-Remy von Matt, Agentur Jung von Matt, Hamburg, Focus-Artikel Nr. 11/1997
- (2) Idem
- (3) Bild-Zeitung, 28.2.1997, Artikel "Deutschlands frechste Werbekampagne"
- (4) Jahrbuch 1996, S. 28-31, und Jahrbuch 1997, S. 52, Deutscher Werberat
- (5) Urteil des Bundesgerichtshof vom 18.5.1985 zur Werbung: "Busengrapscher" und "Schlüpferstürmer", Aktenzeichen I Z 91/93
- (6) Nackte Tatsachen: Das Frauenbild der Werbung, Zentralverband der deutschen Werbewirtschaft, 1993, S. 21
- (7) Idem, S. 31-32
- (8) Jahrbuch 1996, Deutscher Werberat, S. 26
- (9) Jahrbuch 1997, Deutscher Werberat, S. 54
- (10) Nackte Tatsachen, S. 29 und S. 33
- (11) Weibs-Bilder: Zeugnisse zum öffentlichen Ansehen der Frau - ein häßliches Bilderbuch, Reihe Rororo Aktuell: Frauen aktuell, 1979
- (12) Bericht Marlene LENZ vom 14. 10. 1987 zur Darstellung und Stellung der Frau in den Massenmedien, Dok. A2-95/87
- (13) Das Frauenbild in der Fernsehwerbung hat sich kaum verändert, in: Medium, Nr. 4, Jahrgang 18, von Lothar Mikos, 1988
- (14) Armer Chef! Sexistische Zeitschriftenwerbung neu verpackt, in Medium, Nr. 4, Jahrgang 18, von Annette Meyer zum Felde, 1988
- (15) Empfehlung des Europarats Nr. R(90)4 vom 21.2.1990 zur Vermeidung von sprachlichen Sexismen
- (16) Emanzipation in der Werbung? Die Darstellung von Frauen und Männern in der Anzeigenwerbung des "Stern" von 1969 bis 1988, Universität Mainz, Sozialwissenschaftliches Institut für Publizistik, Verfasser Hans-Bernd Brosius und Joachim-Friedrich Staab, 1990
- (17) Sexualität in Illustrierten, eine quantitativ-qualitative Themenanalyse, von Thomas Steffen, Reihe Medien und Kommunikation, Bd. 17, Münster Literatur Verlag, 1991

- (18) Repräsentanz der Frauen in den Medien - Bericht der Arbeitsgruppe "Frauen und Medien" des deutschen Nationalen Vorbereitungskomitees für die 4. Weltfrauenkonferenz 1995; vgl. auch Die Frauen in der Werbung - eine kritische Betrachtung, von Barbara Ecker, Wirtschaftsuniversität Wien, Institut für Unternehmensführung, 1994
- (19) Geheime Botschaften - Detailanalyse der Geschlechterdarstellung in einer Zeitschriftenanzeige, von Kerstin Bauer, 1994
- (20) Europarat, Informationsforum über die Politik der Gleichstellung von Mann und Frau, 6-8. November 1995 - Thema: Wie kann das Verständnis für die Gleichstellung von Mann und Frau gefördert werden - Referat von Monique Remy, Die Rolle und die Verantwortung der Medien
- (21) Untersuchung im Auftrag von Miet Smet, belgische Ministerin für Beschäftigung, Arbeit und Gleichstellungspolitik, April 1996, aus: Chronique féministe: Université des Femmes: le mauvais genre des médias
- (22) Weiblichkeitsklischees in der Fernsehwerbung, Universität Siegen, Institut für Europäische Literatur- und Medienforschung, 1996
- (23) Frau und Werbung, Vorurteile und Forschungsergebnisse, Prof. Dr. Reinhold Bergler, Deutscher Instituts-Verlag, 1992
- (24) Bundesweite repräsentative Studie von 1995, Quelle FR Nr. 137 vom 16.6.1995, durchgeführt im Auftrag der nordrhein-westfälischen Gleichstellungsministerin, vom Institut für Journalistik der Universität Hamburg
- (25) EP-Entschließung vom 18.1.1994 zum Beitritt der Gemeinschaft zur Europäischen Menschenrechtskonvention, Dok.A3-421/93, und vom 16.1.1997 zu dem allgemeinen Rahmen für einen Entwurf zur Revision der Verträge, Dok. B4-40/97
- (26) Progress and Paradox: Women and Media in Europe
Women and Media 1984 - 1994: A decade of Development
Aufsatz von Margret Gallagher - Vorbereitende Konferenz der Europäischen Union für die 4. Weltfrauenkonferenz, Toledo 14. - 16. April 1994
- (27) Benetton und Busengrapscher - ein Test für die wettbewerbsrechtliche Sittenwidrigkeitsklausel und die Meinungsfreiheit, Kurzreferat JZ 1995, von Prof. Dr. Hans-Jürgen Ahrens
- (28) Progress and Paradox: Women and Media in Europe
- (29) Erklärung der Frauenminister im März 1994
- (30) Bundesweite repräsentative Studie von 1995
- (31) Idem

- (32) Umfrage der Europäischen Allianz der Werbeselbstkontrolle über die Selbstregulierung in der Werbung und die Darstellung von Männern und Frauen in der Werbung in Europa, April 1996
- (33) Bericht van VELZEN vom 11.3.1997 Dok. A4-45/97, PE 257.131

B4-0545/95

MOTION FOR A RESOLUTION
pursuant to Rule 45 of the Rules of Procedure
by Mrs Gröner
on discrimination against women in advertising

The European Parliament,

- A. having regard to the resolution of 14 October 1987 on the depiction and position of women in the media⁽¹⁾,
- B. having regard to the resolution of 17 December 1993 on pornography⁽²⁾, adopted on the basis of a report by the Committee on Civil Liberties and Internal Affairs,
- C. having regard to the limits currently imposed on television advertising, as laid down in Articles 12 (discriminatory advertising) and 22 (protection of minors) of the Council Directive of 3 October 1989⁽³⁾,
- D. having regard to the policy of equal treatment of women and men in the media, as endorsed in the third action programme,
- E. whereas women are frequently depicted in poster and pictorial advertising as sex objects designed to catch the eye, but having nothing to do with the products being advertised; whereas their status is consequently reduced to that of a commodity, exactly like the products themselves,
- F. whereas such images are an affront to human dignity,
 - 1. Calls on the Commission to consider whether it might propose standard European laws to put a stop to sexual discrimination against women (conformity to stereotypes) in the advertising carried in the print media;
 - 2. Recommends that the Commission and the Member States draw up a code of practice for advertising agencies and monitor compliance therewith so as to prevent the use of any verbal or pictorial advertising contrary to the principle of respect for human dignity.

⁽¹⁾ OJ C 305, 16.11.1987, p. 67

⁽²⁾ OJ C 20, 24.1.1994, p. 546

⁽³⁾ Directive 89/552/EEC

