European Commission: Study on Development of New Advertising Techniques

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A study on the development of new advertising techniques and their regulatory implications was recently submitted to the European Commission. Prepared by Carat Crystal and Bird and Bird, the study was commissioned as part of the ongoing review of the "Television without Frontiers" Directive.

In the report, a panorama of existing advertising techniques and their regulation is followed by a similar analysis of emerging advertising techniques. In the case of the latter, particular emphasis is placed on interactive, split-screen and virtual advertising.

Devising a new regulatory framework or modifying the existing one to govern new advertising techniques is problematic, not least because of the unpredictable pace of technological change and of the adoption of these techniques. Nevertheless, the report identifies a number of principles which ought to guide any such regulatory initiatives, including: minimal regulation (limited to the achievement of the stated objectives, leaving self-regulation to the industry, where practicable); the preservation or enhancement of legal certainty; subsidiarity (the European Regulator should only intervene when matters cannot be dealt with effectively at the national level). According to the report, the general aim of the adoption or adaptation of regulations should be to strike a chord of harmony between the optimal economic development of the European media industry, on the one hand, and matters of public interest, such as consumer protection (especially minors), the safeguarding of pluralism, the promotion of cultural diversity and respect for competition rules of the Treaty, on the other.

The report calls, inter alia, for clarification of the provisions of the Directive which would apply to split-screen advertising and for the requirement that a clear indication be given whenever virtual advertising is used. The approaches of Member States to new advertising practices diverge to a significant extent; hence the need for greater interpretative certainty as far as the Directive is concerned.

"Study on the development of new advertising techniques and their regulatory implications", Press Release of the European Commission of 7 June 2002, MEMO/02/130

http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/02/130&format=H

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Étude sur le développement des nouvelles techniques publicitaires : Rapport final, Carat Crystal and Bird & Bird, April 2002

http://ec.europa.eu/avpolicy/docs/library/studies/finalised/bird_bird/pub_rapportfinal_fr.pdf

Study on the development of new advertising techniques: final report, Carat Crystal and Bird & Bird, April 2002

http://ec.europa.eu/avpolicy/docs/library/studies/finalised/bird_bird/pub_rapportfinal_en.pdf

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