

making the case for global advertising self-regulation

The challenge will be maintaining consumer confidence while navigating the burgeoning new media landscape

At the World Federation of Advertisers (WFA) conference held on May 18, 2007 in Toronto, senior figures from the global advertising, marketing, agency and media businesses committed themselves to strengthening advertising self-regulation worldwide. WFA president Bernhard Glock summarized the goal: "Society and regulators rightly demand that business assumes its responsibilities. The marketing communications industry is clearly committed to funding and implementing effective advertising self-regulation worldwide. It is critical for global consumer confidence in our industry."

A special WFA task force drawn from the International Chamber of Commerce, the International Advertising Association, the European Advertising Standards Alliance and key industry participants will drive the global self-regulation initiative.

Schemes Differ Widely

Self-regulatory schemes differ widely from country to country. Some include mandatory pre-clearance of some forms of advertising, while others are totally voluntary. Although some countries have specific sanctions for failing to comply with self-regulatory rulings, others have no penalties whatsoever. And in some jurisdictions self-regulatory bodies work closely with local government regulators, while others are entirely independent of any governmental cooperation.

In addition to differing schemes, legal rules and areas of concern vary

considerably. In many developed countries, children's advertising — particularly for high-fat or high-sugar products — is under considerable scrutiny, while such marketing is of little concern in developing countries. The regulation of Internet content is heavy in developing countries but less a focus of regulation in more developed countries.

Hodgepodge of Local Differences

This hodgepodge of local differences can wreak havoc on international campaigns, particularly those supported by Internet initiatives. Worse, dealing with the often Byzantine processes of local governments makes it increasingly difficult to capture global markets without running the risk of regulatory actions that could severely undermine a marketing effort or, worse, irreparably damage brand image. This drives one to a simple conclusion: self-regulation on a global basis is the best way to create an efficient market.

Executing such a program, however, is not an easy proposition. Success will depend upon how engaged local markets become in the process. A grassroots commitment is critical to adjusting global theories to local practices. Education will be the first step in the implementation process, initially targeting local government leaders and influencers, and then consumers.

Perhaps the biggest challenges to any global initiative, however, will be how global self-regulation remains relevant in the burgeoning new media landscape and

how to address the increased blurring between brand-owned advertising and consumer-generated advertising. We all understand many rules for business-to-business (B2B) and business-to-consumer (B2C) advertising. But in a short time, will marketers have to learn new rules for communications between consumers where the desired message is "scripted" in a direct or indirect way by the marketer?

Benefits Are Self-Evident

In spite of these and many other challenges, the benefits of global self-regulation are self-evident. Self-regulation offers quick, creative and effective solutions for the advertising, marketing, agency and media industries and, most importantly, an efficient and consistent way to protect brand image. The WFA global initiative is vitally needed and offers the ability to address varying cultural sensitivities while maintaining the goal of advertising self-regulation.

Douglas Wood is a partner and **Christa Kenin** is an associate at Reed Smith LLP, a law firm in New York City that is a member of the Global Advertising Lawyers Alliance (GALA). They can be reached at dwood@reedsmith.com or ckenin@reedsmith.com. Wood is also the chairman of GALA, which is headquartered in New York City. Information and contacts are available through its Web site: www.gala-marketlaw.com.



BY DOUGLAS WOOD & CHRISTA KENIN