

Increasing regulation to impact on advertising and audiovisual sectors

ADVERTISING IS AN AREA where there are increasing opportunities, but growing regulatory concerns. That was the conclusion drawn by Harbottle & Lewis partner Andy Millmore when he spoke at a recent International Broadcasting Convention (IBC) conference on 'Protecting the media in an uncertain state'.

Millmore suggested that in addition to the stated aims of advertising – to be legal, decent, truthful and honest – there are hidden principles of self-regulation – to moderate behaviour, protect the vulnerable, and encourage social responsibility, amongst others.

He added: 'In the last few years we've seen a move away from the previous relaxation of restrictions on advertising, towards a continuing attempt to control the demand of products which society, or the government, deems harmful.'



MILLMORE: one-stop regulator logical

'There is a continued blurring of lines in relation to advertising and marketing, as different aspects of the media converge,' he continued. 'The old, clear distinctions between advertising and content are lost, as advertisers become broadcasters, and consumers become advertisers.'

For example, could one say that a discussion of the virtues of the Wispa bar on a social networking site is advertising? Or does it depend on the motives of the originator of the discussion? And how do you tell?

Inevitably, Millmore said, this impacts on the regulation of different forms of advertising. What is and what is not regulated, and who regulates it? Should there be lighter forms of regulation, or non-regulation if new media gets 'too difficult' to police, or gets progressively more and more remote from linear broadcasting?

These developments, he said, are increasing the scope of the Advertising

Standards Authority (ASA)'s current role. 'There are parallel regulators,' he said. 'But as Ofcom has appointed the ASA to deal with complaints about broadcast advertising, this is becoming a one-stop shop for complaints in both broadcast and non-broadcast media. This is both logical and helpful to the industry. It's also but one step from that to have a body which is in the lead for regulating and enforcing standards in relation to all forms of advertising and marketing, regardless of media and delivery platform.'

Millmore also commented on the impact of the forthcoming Audiovisual Media Services Directive, which aims to regulate emerging services, such as video on demand, mobile television and audiovisual services on digital television. The goal of the Directive is to create a level playing field between the various types of media within the sector. Millmore said: 'It will affect those involved in the non-linear broadcast industry by imposing an extra layer of compliance which may not deliver much additional consumer benefit, but will harm the bottom line.'

Ben Rigby

City firms lend support to African legal professions

ELEVEN LAWYERS FROM NINE AFRICAN countries are currently on secondment to leading City firms. The three-month placements have been organised by International Lawyers for Africa (ILFA) and SJ Berwin, in partnership with 14 other firms.

ILFA was launched in the UK in March 2006. The initiative aims to provide local lawyers with the international skills that will help their countries compete within the global economy.

Firmat Tarimo, a Tanzanian lawyer based at Clifford Chance, told *IHL*: 'These are valuable skills to add to the administration of international law in the country and the east African region.'

Perpetua Nji, a Cameroonian magistrate currently working at Eversheds, said: 'The curriculum is very interesting, educative and challenging, the project management seminar is enriching, and with the skills I have gathered it will increase the level on which we work back home.'

Rukia Baruti, the director of ILFA at SJ Berwin, is hoping to launch the initiative in the US and across Europe. A presence in France would benefit the Francophone African nations, she said. In addition, lawyers from four more countries are being lined up to participate in next year's placements.

Juliet Andrew-Orji

Businesses lose US court apartheid ruling

LEADING US LAW FIRM COHEN, MILSTEIN, Hausfeld & Toll has persuaded the US Court of Appeals for the Second Circuit to rule that corporations can be held liable for aiding and abetting human rights violations during the South African apartheid regime.

The lawsuit, *Khulumani et al v Barclays National Bank et al*, is predicated on the Alien Torts Claims Act, which grants US courts jurisdiction over certain violations of international law. It has been remitted to the district court for further proceedings.

Eduardo Reyes