

Chapter 4

Customer–Centric Marketing in the European Union from a Legal Perspective

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ABSTRACT

Consumer-Centric Marketing is one of the latest methods employed by traders to influence and shape consumer behaviour in order to secure and increase demand for their products. This chapter analyses two forms of Consumer-Centric Marketing, the so-called Cause-Related Marketing and Relationship Marketing. It examines their logic and methods of application, before asking which legal issues might arise from the use of such practices. Then, European legislation on the protection of personal data and the current developments in Unfair Competition law in Europe are discussed, as well as the tactics that should be avoided by companies when implementing the above marketing methods to prevent a possible ban on their advertising.

INTRODUCTION

Within the framework of their communication policy companies have implemented over the years various tactics to approach and attract the public. These tactics are becoming more and more imaginative. After the companies had used all traditional mass media for their promotional purposes (telemarketing, product placement, cold-calling, sponsoring etc.), they turned to the Internet and took advantage of modern technology (banners, frames, linking, power shopping, virtual malls, online auctions, email marketing

etc.) and invented new forms of advertising, such as the so-called character merchandising, as well as advertising with free gifts and benefits, sales promotion through competitions, “pyramid sales” etc. (Marinos, 2009).

Nowadays, however, it seems to be insufficient for companies to enter new mass media, to display inventiveness in their advertising methods and to tempt consumers, in order to ensure demand for their products. Competition in the market is fierce and consumers, on the one hand, have many alternatives regarding the products they are interested in and, on the other hand, can be informed about

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the quality of the products by impartial sources. It follows that the purchasing behaviour of consumers is more conscious today than before. Factors still likely to influence and guide them may be the price of a product and the level of convenience in its acquisition and use. In any case, the bond between consumers and companies seems to have become temporary and occasional (Brito, 2011). Consumer-Centric Marketing, which evolved over the past years through science and business practice, intends to fight against these trends. Indeed, this type of marketing aims to instill a kind of brand loyalty with consumers, who then remain indifferent to foreign challenges as well as the company's own mistakes.

However, Consumer-Centric Marketing strategies can generate legal concerns related especially to consumer's rights. Relationship Marketing employs techniques like extracting and storing consumers' personal data, creating consumer profiles, adapting the company's sales policy to them and targeting its advertising messages to individual customers. In addition, Cause-Related advertising can be emotionally charged and psychologically coercive, forcing consumers towards purchasing attitudes, which otherwise they would have never developed. The European Union supports the idea of a liberal internal market, and is open to new forms of sales promotion. These can serve the objective of free movement of goods, services and capital between Member States. However, the EU is highly sensitive and protective towards the recipients-targets of these practices. In recent years the EU has undertaken a methodical effort to regulate marketing and to harmonise the laws of its Member States related to consumer protection, as well as to the protection of personal data. Furthermore, in all Member States the economic freedom and the informational self-determination of the individual have been recognized as constitutionally protected rights.

This study is addressed to the professionals who are interested in advertising nationally and/or internationally within the European Union by

using Consumer-Centric Marketing strategies, and endeavors to inform them in relation to how they should develop their advertising campaign, in order to prevent a possible ban. The author first describes in detail the traditional and modern implementation methods of Cause-Related and Relationship Marketing in order to launch as many legal concerns as possible. She then presents solutions to these issues, on the basis of the legislative developments in the European Union, relevant case-law and the theoretical considerations of legal science.

RELATIONSHIP MARKETING IN THE INTERNAL MARKET FROM A LEGAL STANDPOINT

Relationship Marketing: Principles and Application

Conventional Practice

"Relationship Marketing" is described above as a method used by companies to fight the phenomenon of volatility of consumer purchase behaviour. It is based on the premise that a company, in order to keep its customers, should be concerned with what customers need and how to make their lives easier, ensuring reasonable prices, good service and solutions in what concerns each customer individually. This creates a bond between the parties that does not wear out over time (Seybold, 2002; Berry, 2002).

It is true that these practices were devised and applied in trade long ago. In modern times, science has decoded and standardised Relationship Marketing by analysing its basic steps. According to the systematisation that the present study embraces, the framework of Relationship Marketing requires that a company first creates databases with information pertaining to its customers. Next, the company isolates the customers of special interest (as of their purchasing power, social status,

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