



MARKENVERBAND

THE GERMAN BRANDS INDUSTRY IN EUROPE

**FOR FUNCTIONING MARKETS,
FOR EMPOWERED CONSUMERS,
FOR SUSTAINABLE BUSINESS AND
FOR FAIR COMPETITION**

www.markenverband.de

MARKENVERBAND, founded in 1903, is the leading organisation representing the German branded goods and branded service industry and is the largest association of its type in Europe. It has a mandate from around 400 highly regarded branded companies active across sectors of all sizes and types. These companies represent a turnover of around 500 billion euros and more than 1.5 million jobs in Germany.

MARKENVERBAND provides companies, policy-makers and the general public with first-hand knowledge of brands and represents the interests of its members at national and European level. In Berlin and Brussels, it uses its international networks, for instance as an active member of the European umbrella organisation, the European Brands Association (AIM).

Dear Sir or Madam!

For many companies in the German branded goods and branded services industry, the European single market is an effective source of competitive supplies, an important market, a significant destination for investments and also a solid base for global activity.

Business framework conditions which often have a direct impact on the tools for brand management and brand protection are increasingly determined in negotiations between European Commission, European Parliament and Council of Ministers. Hence, Markenverband is stepping up deployment of its specific expertise and professional network also in Brussels.

This priorities paper is a "visiting card" for our contacts with the EU institutions as well as with our partners in politics, business and society in Europe and Germany. It expresses a clear commitment by the leading association representing the German branded goods and branded service industry to an open and forward-looking EU which is capable of taking decisions. For good reasons, it campaigns for functioning markets, mature consumers, sustainable business and fair competition.

I hope you find our positions interesting and useful.



Franz-Peter Falke
President

Executive Summary

Markenverband campaigns for a Europe which is capable of taking decisions to further develop the single market guided by the principles of subsidiarity and proportionality. We support an open Europe which is committed to a multilaterally agreed system of liberal free trade and to the protection of intellectual property. We support a forward-looking Europe which gives precedence to competition in all policy areas and which meets the requirements of better regulation.

In concrete terms, we call for:

Develop Europe – Enhance competitiveness

For an open and functioning internal market

Strengthen competition – Maintain diversity

For competition which delivers appropriate prices, efficient use of resources as well as consumer-oriented products and services

Enable information – Support consumers

For informed and responsible consumers

Protect brands – Prosecute crime

For effective protection of intellectual property which stimulates innovation, cross-border trade and a competitive information society

Encourage sustainability – Safeguard the environment

For well thought-out sustainability beyond products and processes

Facilitate transport operations – Simplify goods flows

For functioning supply chains on first-class infrastructure

The German branded goods and branded services industry in Europe

Article 3 (3) of the Treaty on European Union stipulates:

"The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance. (...)."

The German branded goods and branded services industry – each business in its own way – makes its contribution to bringing these objectives closer to being a reality. Its members stand for investments, innovations, growth and employment. Their products and services are oriented on the goal of well thought-out sustainability. They offer consumers attractive products with a constant high degree of innovation and a reliable promise of quality.

In Germany alone, the brands industry represents a turnover of some 500 billion euros, more than 1.5 million jobs and a share of around 20% of all goods exports. As a result, the German branded goods and branded services industry is a weighty economic factor in Europe and has a great interest in a functioning European Union that is capable of action. For German companies, the EU is in any event:

- the priority destination for direct investments. At the end of 2007, businesses from all economic sectors had commitments of around 503 billion euros in EU countries. That corresponds to about 57% of all German foreign investments;
- often the decisive consumer and procurement market. About 65% of German exports and almost 60% of imports take place within the EU;
- an increasingly important legislator and source of initiatives for many and ever more matters linked to business activity.

A shared goal of EU and Member States should be to strengthen growth, jobs and quality-oriented consumption. This calls for suitable framework conditions. These should be appropriately formulated at European level and evenly implemented in all Member States.

Develop Europe – Enhance competitiveness

Where are we now?

Since December 2009 the EU has had a different legal basis. The Lisbon treaty establishes a clearer demarcation between the competences of the EU and its Member States, more majority decisions in the Council and more co-decision with the Parliament. The economic backbone of the EU continues to be the internal market. It needs to be developed to meet future needs.

Where do we want to go?

The German branded goods and branded services industry has a great interest in an open and fully functioning internal market. Markenverband therefore calls for:

- **Progress towards EU enlargement with no preordained result.** In January 2010 two countries are involved in concrete negotiations on EU accession. A further six countries have a clear EU perspective, albeit at different stages of maturity. EU and Member States are invited to pursue efforts towards EU enlargement in a balanced way. Accessions should only be possible after allowance has been made for the EU's absorption capacity. New EU countries must transpose and apply the full *acquis communautaire* as rapidly as possible as well as implementing all the commitments entered into in the accession negotiations prior to accession. Accession must not be automatic.
- **Provide strategic support for competitiveness.** In March 2000 the "Lisbon strategy" for growth and jobs envisaged results by 2010. An assessment of its implementation is not completely satisfactory. Nevertheless, it is important to have a coordinated strategy for growth, employment and sustainable consumption in Europe also after 2010. To that end, there needs to be stronger innovation and research – and necessarily stronger protection of intellectual property –, competition and open markets, an appropriate environment and climate policy as well as improved framework conditions for entrepreneurship.
- **Ensure better regulation.** Dismantling red tape and better regulation continue to be a long-term mission both nationally and at European level. Companies need a straightforward, coherent and stable legal framework in the internal market. It continues to be helpful if Member States transpose European rules into national legislation in good time and avoid additional national measures known as "gold-plating". More use should be made of the business community's self-regulation capacities, which should also be responsibly developed in individual cases.

Strengthen competitiveness – Maintain diversity

Where are we now?

Through a varied offer of goods and services of high quality and at an attractive price, the brands industry makes a decisive contribution to functioning competition. This needs to be safeguarded in the interest of consumers and macroeconomic performance. However, the degree of business concentration is growing in many sectors, especially in retail. This weakens markets and undermines competition. Competition which the brands industry expressly call for.

Where do we want to go?

The strength of the German brands industry is based on functioning markets and close contact with the consumer. The brands industry follows the model of performance-based competition through constant innovation, high quality and reliable safety. Performance-based competition ensures reasonable prices, efficient use of resources and consumer-oriented products and services.

In the interest of suppliers and consumers, Markenverband calls for:

- **Protect performance-based competition.** Successful competition policy means, among other things, countering concentration processes and limiting their consequences. To this end, there needs to be broad-sighted merger control and rigorous monitoring for abuse.
- **Maintain diversity.** What is needed is a competition framework which ensures a differentiated structure among producers and distributors, and which shapes the relationship between manufacturers and retailers reliably and on the basis of partnership.
- **Safeguard choice.** Consumers want the “best solution on the shelf”, so that they can reach informed decisions. A functioning competition framework is decisive for ensuring that the products on offer reflect the preferences of consumers. EU studies into the structure and functioning of markets and submarkets in the EU internal market should be carried out on the basis of reliable data and always be differentiated. Using their results to deduce regulatory intervention, e.g. in price mechanisms, seems to be a step in the wrong direction.

Enable information – Support consumers

Where are we now?

Avoidance of unnecessary rules generates market-based and budget-neutral momentum for growth and jobs – not least for small and medium-sized enterprises. However, the brands industry continues to be confronted with regulatory initiatives from Brussels such as on labelling obligations (traffic lights on food products), on supposed consumer protection (collective redress) or advertising restrictions.

Where do we want to go?

Customers for brands demand a wide offer of good quality and safe goods and services at reasonable prices. They rightly want to be taken seriously as informed and responsible consumers. In order to breathe life into the model of the empowered consumer, Markenverband calls for:

- **Maintain a balance.** Functioning competition ensures effective consumer protection. If flanking regulation is needed, this should be designed jointly by EU / Member States, business and consumers. Additional burdens motivated by general policy considerations or

disproportionate deployment of legal remedies should not jeopardise competitiveness and innovative capacity nor companies, nor jobs.

- **Increase transparency.** Brands flourish on the firm promise of quality, innovation, safety and distinctiveness. If these criteria do not allow any differentiation – e.g. to meet state requirements – competition suffers, and hence quality and consumer protection also suffer. Product labelling should be transparent, open and non-discriminatory. Voluntary measures by business should be preferred to requirements imposed by the state. The justified consumer interest in content and source of products should be satisfied in competition and not through state regulation.
- **Enable free communication.** Consumers want detailed and customised information on and support for legally produced and distributed products and services. In order to do justice to this demand, freedom of commercial communication is needed. This also stimulates competition and innovation capacity, and prevents an ossification of market structures. At the same time, it is the basis for a flourishing advertising industry with a turnover of around 30 billion euros which employs almost 600,000 people directly or indirectly in Germany alone. Restrictions or bans on advertising should be firmly rejected, relying instead on the proven self-regulation of the advertising industry.

Protect brands – Prosecute crime

Where are we now?

Product and brand piracy is an underestimated form of crime which is organised on a global scale. It often goes hand in hand with trafficking in drugs, arms and people. Although each year millions of copied or counterfeit articles are impounded at the EU's external borders, this is only the tip of the iceberg. OECD estimates the value of trade in counterfeit goods to be at least 200 billion euros a year. Product and brand piracy damages the performance promise of brands in terms of innovation, quality and customer benefit. It exposes consumers to considerable risks and adds to uncertainty.

Where do we want to go?

Effective protection of intellectual property gives incentives for innovation and cross-border trade. It is a cornerstone of a competitive know-ledge society which creates widespread prosperity and quality-oriented consumption. Hence – and at the same time to put a stop to organised crime – Markenverband calls for:

- **Enshrine clear rules.** EU and Member States must combat product and brand crime at the manufacturing stage. In all negotiations on bilateral agreements, on agreements between the EU and third countries or in EU accession negotiations, protection of intellectual property must be firmly enshrined and consistently demanded, and effective implementation of agreements ensured.

- **Move activities forward at European level.** The European Commission rightly wants to create an efficient, proportionate, and predictable system for enforcement of intellectual property rights with legislative and non-legislative measures. This approach should be moved forward better with the Member States, with a view to the internal market but also above all for the external commerce dimension. An important role should be assigned the European Observatory on Counterfeiting and Piracy with extensive involvement of interested businesses.
- **Raise awareness.** Many consumers behave innocently. They themselves are victims of product and brand crime, they suffer harm to their assets or health. At the same time, some consumers also buy counterfeits as a conscious decision for a supposed bargain, despite knowing about all the dangers and negative attendant circumstances. What is needed is a coordinated campaign with the goal of proscribing the purchase of counterfeits more strongly than hitherto.

Encourage sustainability – Safeguard the environment

Where are we now?

Part of the performance promise of a brand is well thought-out sustainability. Manufacturers and service providers with brands have long been committed to the trinity of economic prosperity, social justice and a responsible attitude to the environment and climate.

Where do we want to go?

Ever more companies show their commitment in different ways at local level and also live up to pioneering role for sustainability beyond products and processes. Markenverband therefore calls for:

- **Safeguard the climate.** The brands industry is committed to ambitious and effective climate protection. Emission trading seems to be a sensible approach which provides incentives for a profit motive and makes this compatible with climate protection. This can function completely only on the basis of fair, transparent and internationally uniform rules. To this end, all major emitters must be involved, carbon leakage or job leakage must be avoided and intellectual property must be protected – in view of the necessary investments in environmental technology.
- **Take account of the entire lifecycle.** Raw materials and product components are procured by branded goods manufacturers taking account of environment and climate. Packaging materials, often also a medium for the brand message and a clear distinguishing feature, are constantly being further developed with this in mind. The resulting waste needs to be managed using economically and ecologically efficient as well as competitive solutions in a transparent system that applies the “polluter pays” principle. Recycling must encompass all secondary materials and allow them to be used as raw materials in the business cycle.

Enable Corporate Social Responsibility (CSR). In CSR activities, many companies in the brands industry go well beyond statutory requirements. They pursue them on a voluntary basis and as the result of their own initiatives and their own responsibility. Brussels should seize this self-regulated and market-led approach as an opportunity. Unwieldy regulation, restrictions and red tape should be avoided. Philosophy and practice at company level coupled with the concrete feasibility of specific projects should continue to point the way.

Facilitate transport operations – Simplify goods flows

Where are we now?

Efficient goods transport and functioning supply chains on first-class infrastructure safeguard the environment and climate. At the same time, consumers receive fresh products displayed on filled shelves. In Germany alone, 54 tonnes needs to be transported each year (per consumer?) for a reliable supply of goods, equivalent to almost 150 kilograms a day.

Where do we want to go?

Forecasts assume that goods transport will almost double by 2025. Elements that have to be considered are transport challenges such as growing mobility, increasing demands in terms of climate and environmental protection as well as uneven implementation of EU law in the Member States. Markenverband therefore calls for:

- **Build infrastructure.** Increasing traffic requires needs-based investments in maintaining and expanding transport routes. Road and rail networks together with airports and sea ports should be geared to predictable requirements. To this end, trans-European transport networks (TEN) need to be completed rapidly and further developed in the light of future needs. Europe-wide and comprehensive deployment of intelligent traffic systems can also help to improve efficiency. At the same time, the principle of subsidiarity applies and hence the invitation to address infrastructure tasks competitively on the ground at national level.
- **Assign costs appropriately.** Sustainability also includes pricing of “external costs” such as noise, air pollution or traffic congestion. One-sided additions to the cost of road freight transport dictated by policy-makers do not seem to be the right answer. This also distorts competition between transport modes. The route outlined by the European Commission for internalisation of external costs throws up considerable problems of method and practice, and accordingly seems to be unworkable. In the EU and Germany, care needs to be taken to examine all transport modes equally for their impact on environment and climate and taking account of the competitiveness of logistics sectors.
- **Increase the potential of logistics.** There is still a need for action on the regulatory framework conditions for efficient, flexible and attractively priced logistics in the internal market. For instance, there are national differences in rail transport regarding the degree of market opening or in road transport regarding the rules on permissible weight, vehicle length, and driving hours. The aim here should be to establish a fully functioning internal marketing the supply chain.

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