



MARKENVERBAND



BRANDS AND CONSUMER PROTECTION

MARKENVERBAND, founded in Berlin in 1903, is the leading organisation representing the German branded goods and service industry. Its members are concentrated in the areas of foodstuffs, household goods, fashion, cosmetics, pharmaceuticals and telecommunications. They account for branded turnover of more than 300 billion euros in the area of consumer goods and around 200 billion euros in the services sector.

MARKENVERBAND provides companies, policy-makers and the general public with first-hand knowledge about brands and represents the interests of its members nationally and at European level. In Berlin and Brussels, it deploys its international networks, for instance as an active member of the European umbrella organisation "Association des Industries de Marques" (AIM).

Dear Sir or Madam,

Under the broad heading of consumer protection, new restrictions and rules are devised and implemented, not only in Germany but also in Brussels. These often have positive consequences for consumers, whose health, well-being and also financial protection are an important aim for society as a whole. However, the concern of policy-makers for the consumer not uncommonly, and in recent times unfortunately ever more frequently, go way beyond the objective, replacing necessary protection with influence and pre-empted decisions.

Markenverband therefore campaigns for a responsible consumer policy which supports consumers when making mature and self-determined decisions. But in this regard it is always important to ensure that market players – businesses and consumers – retain sufficient discretion and keep state intervention within reasonable bounds. Consumer protection is not possible without entrepreneurial freedom, since this removes from society the economic and financial basis and with it the well-being that is just as important for the consumer. Markenverband therefore works in favour of initiatives for companies in the framework of voluntary self-commitment where information, transparency and consumer sovereignty are at the focus of concern. A task in which brand-oriented companies have always played a pioneering role.

I hope that you find our positions interesting and useful.



Franz-Peter Falke
President

Executive Summary

As a representative for constant innovation, high quality and to meet society's high standards, brands are absolutely essential. Brands are therefore an important pillar of consumer protection.

Markenverband campaigns for a responsible consumer policy which supports the mature consumer and does not pre-empt his decisions. Hence:

- Unfavourable developments in society such as alcohol abuse must be combated through education, since advertising bans are false solutions which seem to promise but do not deliver simple and rapid results.
- Consumers must be better informed about the consequences of product and brand piracy and criminal law needs to be tightened, since piracy endangers the consumer and damages the economy.

Competition is the best consumer protection. Hence:

- Its framework conditions must be consistently defended by the government. In particular, competition authorities must intervene in good time when oligopolies on the demand side are established, in order to prevent buyer power and giveaway prices to the benefit of consumers, and once more to promote quality-conscious consumption.
- Over-regulation must be avoided and self-regulation supported. Only in this way can market participants adjust flexibly to rapidly changing market facts and defend their international competitiveness.

Modern consumer policy in the social market economy

The model for a modern consumer policy is the mature, responsible and informed consumer. His interests are multi-faceted. As a market participant, he is interested in a wide selection of high quality and safe goods and services at appropriate prices. In this context, he wants to benefit from innovations and new technical developments rapidly and without essential risks. At the same time, consumers – as employees or self-employed workers - are also interested in a strong German economy with strong companies and internationally competitive jobs, which make a considerable contribution to the well-being of society as a whole. The same applies for those who have already left the labour market or those who are dependent on public welfare. For all, it is true that society can ultimately only deliver what companies and their employees have previously produced.

Consumer protection which is matched on the other side by the competitiveness of companies clearly creates a situation with some tension that has to be balanced. In our economic order, state intervention should be limited to a reasonable degree, competition should not be disturbed wherever possible, and decisions by market players should be respected. It is also important to answer the question of what role and responsibility accrues to the individual market partners – manufacturers, retailers, consumers. A forward-looking consumer policy should be developed in dialogue with businesses, consumer organisations and policy-makers. In this regard, it is important to meet goals of society, reducing health risks, providing sensitive groups such as children with special protection, promoting legal certainty and transparency, but at the same time also to respect the economic interests of companies and their employees.

Brand-oriented companies already play a pioneering role. Each year they invest large amounts in identifying needs and analysing customer wishes, which results in a particular competence concerning consumer interests. This knowledge is the basis for the development of high quality products and services, for information and education. This generates competition for the most consumer-friendly products and services. Businesses that are successful over the longer term in this respect are rewarded by a high level of recognition, consumer loyalty and trust – all attributes of strong brands. Companies and products can only develop into brands in the first place through a consumer-oriented attitude. Behaviour aligned on the interests of consumers is therefore the driving force for the activities of brand businesses.

Informed instead of pre-empted – strengthen freedom and ability to make decisions

Consumers today move in a world with an enormous range of goods and services. New products are added to the offer landscape almost daily, also to the benefit of the consumer. However, it is not always easy to have an overview of all advantages and drawbacks of the different offers. Against this background, the political tendency to remove decisions from consumers increases. Yet what is at first sight well intentioned, often places a question mark over the consumer's maturity and ability to take responsible action, as well as his freedom rights. It is not the government that knows what is best for a person, but that person himself. Their progressive loss of discretion and the ever more far-reaching transfer to the state of responsibility for personal lifestyle decisions not only leads into a regulatory dead end in terms of consumer policy. A country that generates a considerable portion of its prosperity from small and medium-sized enterprises and flourishes thanks to those with the courage and the entrepreneurial ambition to be autonomous cannot afford to risk its future by raising future generations with a mindset which transfers even responsibility for eating habits to the government and its idea of a healthy lifestyle. The result is a spiral of regulation, since ever fewer are required to have their own evaluation capacity for risks and an appropriate lifestyle.

Many companies already do more than what is required of them in the framework of their guarantee and information obligations. It is precisely the brand-oriented businesses represented by Markenverband often do justice to the good reputation of their companies, products and services by providing a special information service whereby employees are available to respond to customers' questions and comments by telephone, and also provide a wide range of product information via the Internet or fax. This makes it clear that information policy is also an important competition factor for companies, which therefore develop this policy on an on-going basis, in the interest of the customer.

By contrast, the attempt to prescribe the details of product information via regulation leads to new bureaucratic burdens. Competition for the most efficient consumer information is undermined by uniform, state-ordained measures. This particularly weakens innovative, quality-oriented manufacturers or branded products and services.

Topical example:**Traffic lights on food products**

Political discussions continue on EU-wide obligatory labelling showing the nutritional values of foodstuffs as a contribution in the battle against overweight. Consumers should be able to gain information understandably and simply about the nutritional value of foodstuffs, as the basis for decisions on conscious and balanced eating. The foodstuffs industry has already taken initiatives voluntarily and developed a labelling system for the nutritional value of foodstuffs with the guideline daily amount (GDA), which – according to a survey by the German Ministry of Food, Agriculture and Consumer Protection - is perceived by more than 80% of Germans to be informative and understandable as well as presented clearly. GDA labelling informs the consumer about how much of a product contains of which foodstuff, and what percentage of the daily need the product contains. In this way, consumers can see at a glance how much of a product they can eat or drink in the framework of a balanced diet.

The so-called “traffic light” is different: it describes nutritional values simply with a green, amber or red signal depending on what limit values are reached or not reached. There is no scientific justification for such a classification. Furthermore, no comparability with similar products is possible within the individual colours. Rather, consumers are even misled, since “green” often suggests false safety while “red” unleashes fears without justification. The same applies for a mixed form of GDA labelling and traffic lights, in which GDA information is backed up by traffic lights. This encourages consumers to look only at the signal sent by the colour coding and not at the factual information. With its signal and discouragement effect, traffic light labelling seeks to steer buying behaviour by discriminating against products or product groups. This politically and ideologically inspired attempt to steer demand runs counter to the model of the mature consumer, instead of genuinely improving information through a GDA compass and hence strengthening individual responsibility.

The wish for information as the basis for a responsible decision by the consumer necessarily means that companies must be able to communicate appropriately about their products and services. Markenverband therefore calls for freedom of communication and rejects statutory restrictions or even bans on advertising measures for particular product groups. It is welcome that the German government rejects further restrictions in its latest media and communication report. However, this must apply beyond the current legislature. Moreover, freedom of communication does not release companies from the obligation to shape and implement communication measures responsibly. For that reason, Markenverband supports self-commitments by industry such as the guidelines of the German Advertising Council or self-regulation initiatives by individual companies and sectors, for instance with respect to children and young people.

Topical example:**EU activities to place further restrictions on advertising**

Following the ban on tobacco advertising, there are discussions in Brussels on requiring generic packaging for cigarettes, which would preclude all forms of individual design and hence communication. And, alongside the on-going debate also at national level about advertising restrictions for alcoholic drinks, the European Parliament is discussing an obligation for "gender-neutral" advertising which clearly goes beyond the anti-discrimination debate and targets society's role models for men and women.

All too often advertising is overhastily blamed for all types of development in society. In the meantime, a number of academic studies have shown that advertising is just one influence parameter among many for steering human behaviour. In addition, there is a clear basic stance in favour of advertising in the population: a majority of the German population says that printed and broadcast advertisements provide useful information about new products. According to a recent survey by TNS Infratest, for the great majority of viewers, television advertising and sponsorship are "simply" part of modern life and the more accepted the better they are made. Furthermore, advertising is an important economic factor with around 600,000 employees. It is also an essential element of our market order which stimulates competition and thus also growth and prosperity.

Competition is the best consumer protection

Functioning competition is the guarantee for a whole range of market processes which directly benefit the consumer, and which cannot be achieved either through state regulation or through direct state provision.

- Competition is the fundamental condition for appropriate prices, i.e. for products which represent value for money. Excessively high prices cannot be maintained in an environment characterised by competition.
- Competition is the basis for efficient use of resources. Only those who use the resources available to them carefully will be in a position to reduce production costs and to keep prices in line with international competition in a globalising world.
- Competition is the necessary condition for innovations. Only those who can offer the consumer new products in competition have the possibility to win market shares and gain access to new categories of buyers. This is the only way to generate the impetus to invest in research and development and hence also to make a contribution to the further development of society. State-run markets or markets closed off by monopolies are therefore hostile to innovations.

However, competition also requires the protection of holders of intellectual property rights. Only in a competitive environment in which innovations and brands cannot be copied is there any stimulus to invest in research and development in order to create new products or designs. But counterfeit products not only endanger brands and their value. They massively endanger the health of consumers. For, whereas brand manufacturers follow high safety standards, counterfeiters exploit the generated consumer trust without risk. Markenverband therefore works for effective protection of intellectual property rights and their consistent enforcement. Brand and product piracy needs to be combated more effectively – precisely in the interest of consumers. Moreover, information and education of consumers must be improved. Young people in particular, who according to recent studies often acquire copies without being aware of the risk, need to be more intensively educated about the sometimes life-threatening dangers of pirated goods.

But, above all, free competition requires identification and elimination of market distortions generated by market power. An essential concern of Markenverband is therefore effective supervision of antitrust abuse.

Topical example:**Progressive concentration in the retail sector**

The fundamental condition for the distribution of branded articles is access to consumers. However, relations with the retail market partner have become more difficult in recent years. The concentration in German retailing sector in particular means that a few trading groups have developed a power over their suppliers that can have a negative impact on competition. Not only has the number of retailers reduced – the remaining businesses with strong market power have also been able to extend their market shares further. In addition, own brands are being further developed. The overhasty argument that customers benefit from lower prices is deceptive: the price is always also an innovation and quality premium. Functioning competition guarantees consumers the best price, not the cheapest. But if the retail sector loses an interest in distributing brands, consumers will lose their power to steer demand: the customer will no longer decide what he buys but the retailer will decide what is on the shelf.

EU consumer policy: promote the internal market, avoid over-regulation

Competition in the European internal market presupposes harmonisation in a few central areas. Markenverband welcomes explicit efforts by the European Commission to drive this process forward. Harmonisation not only creates greater legal certainty for consumers, but above all facilitates trading by companies in the enlarged European internal market. This also strengthens the growth prospects for the branded goods and services industry. By contrast, what is not acceptable is that the European Commission apparently plans additional burdens on businesses over and above harmonisation of existing rules. Based on the consumer barometer it has initiated, which finds that there are questions about consumers' ability to reach effective decisions and to understand the available choice options, new rules are likely to be introduced. This relates, for instance, to rules on the transfer of risk in the case of mail order purchases or the possibility to verify the appropriateness of prices in contracts. In Germany in particular, where high consumer protection standards already apply, further bureaucratic restrictions and liability risks would mean a weakening of the economy including its innovative and trustworthy brand manufacturers in intercontinental competition. It is therefore to be welcomed that the European Parliament has already rejected many of these proposals.

Business accepts responsibility

Business has a particular role in the framework of the dialogue for a modern consumer policy. Only with a knowledge of business processes and the market situation can consumer policy be shaped to the benefit of a strong and competitive German economy.

However, brand-oriented companies in particular offer consumer benefit not only through or in connection with their products and services. Positive contributions for society and the environment are also delivered through a commitment that goes beyond their actual business activity, summarised in the concept of corporate social responsibility (CSR). Companies sponsor or initiate aid projects, promote environmental protection or release their employees with paid free time for social or ecological projects, thereby making their own know-how available. They commit worldwide or support the local sport club, so that children and young people are given or retain an offer for structuring their free time and enjoying healthy exercise. Corporate social responsibility has now become an important component of our interaction with society, and its importance is growing. Markenverband is therefore not only available internally to give its members a platform for exchange of experience and new ideas about CSR. As the voice of the brand-oriented goods and services industry, it expressly seeks dialogue with other federations and organisations, policy-makers, academia as well as the wider public, in order to discuss the possibilities but also the expectations of society from companies.

What we want from policy-makers

It is the task of policy-makers to rule out or minimise risks to the health and safety of consumers only where market and competition alone cannot do so sufficiently. Nevertheless, here too: despite all shared efforts, absolute safety is not possible. The attempt to achieve it will go hand in hand with disproportionate and hence unaffordable bureaucracy. Rather, the task of policy-makers is to deploy the regulatory instruments at their disposal in a measured way and to ensure functioning competition. The fundamental assumption for state action must be: give priority to market-based regulatory mechanisms. In particular, voluntary self-commitments should be preferred to bureaucratic rules, since they react more flexibly to future developments and thus arrive more rapidly at effective solutions. Sustainable action to the benefit of the consumer can only be achieved in exchange with business. Markenverband also will continue to pursue this dialogue intensively.

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Berlin, April 2010