ADVERTISING BUSINESS GROUP

Living up to our responsibilities

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In March this year, the Federal Trade Commission in the United States released a detailed and damning false advertising lawsuit against Volkswagen, claiming it deceived consumers with its 'Clean Diesel' campaign, and sought to compensate Americans who had bought or leased an affected vehicle between late 2008 and late 2015. The lawsuit would go on to become the largest false advertising case in the commission's history.

A few weeks later, confectionary giant Mars Food announced it was to introduce a new labelling system in the United Kingdom, advising consumers to only eat products that are higher in fat, salt and sugar 'occasionally'. It was a move designed to promote healthy eating as part of a five-year initiative, with Mars also to revamp its UK product range and reformulate many of its best-known foods.

The two cases represent both ends of the ethical advertising spectrum. They also reveal the bonds of responsibility between government legislation and self-regulation. At one end, the kind of deceptive messaging and false product claims that only act to reinforce public contempt for advertising and the brands behind it. At the other, an attempt to be genuinely corporately responsible and to reflect a growing movement towards honest and principled corporate behaviour and communication.

Mars Food's unprecedented announcement may have been unusual, but it is understandable in an environment where brands find themselves increasingly under the consumer microscope. They stand accused of creating a culture of materialistic excess and over consumption, whilst simultaneously marketing themselves as virtuous, even as they ignore issues of inequality, wellbeing and global concerns over the environment and health.

Earlier this year the economist, author and professor Noreena Hertz released the findings of a research project into the attitudes of 13 to 20-year-olds – a group she nicknamed 'Generation Katniss' after the star of *The Hunger Games*. She found that only six per cent of Generation K trusted big corporations to 'do the right thing'. For 20 to 30-year-olds, it was 12 per cent.

Hertz also revealed that Generation K's wider concerns focused on data privacy, whilst topics such as inequality and communitarianism are embraced and traditional institutions are distrusted. They are young and idealistic, but they are also indicative of a movement towards social responsibility.

It is within such an environment that the need for ethical advertising and effective codes of advertising practice become starkly apparent. Consumers expect brands to reflect their ideas and principals, but also for them to be responsible in an era when privacy is being eroded and the impact of the digital revolution is being keenly felt. Perhaps nowhere more so than in the wider Gulf, where advertising touches every aspect of our daily lives.

As the advertising industry within the Gulf Cooperation Council (GCC) has grown, so too has the need for self-regulation. The challenges of oil price volatility coupled with war and conflict may have cast a dark cloud over the region's advertising landscape, but they have done little to impede the industry's momentum.

A recent study by Northwestern University in Qatar (NU-Q) estimated that the region's advertising market was worth $5.5 billion in net advertising spend in 2015. ZenithOptimedia had put the figure for the Middle East and North Africa at $3.2 billion in 2015, highlighting discrepancies in the way advertising spend is reported regionally. Within the UAE, ad spend sat at $524 million for the same year, said ZenithOptimedia.

Although growth has been sluggish since the crash of 2008 and 2009, with regional instability further undermining expansion of the market, the industry is far greater in size and far more sophisticated in its scope than 10, or even five, years ago. The convergence of advertising platforms, the rise of social media influencers, programmatic buying, real-time bidding, native advertising, the surge in video content, advances in technology, the power of mobile, and the rise of e-commerce have all impacted how the industry works and further complicated its make up, heightening the need for a universal approach to self-regulation.

For instance, an estimated 500 companies now operate in the media and advertising space according to NU-Q, with the UAE representing

ONLY SIX PER CENT

OF 'GENERATION KATNISS' TRUSTED BIG CORPORATIONS TO 'DO THE RIGHT THING'

30 per cent of all advertising companies and employees in the region. While many of them may be small scale, the big international networks have all ramped-up their presence. The Omnicom Media Group alone has seen the number of its employees across the MENA region increase from 200 in 2006 to 550 in 2016. The Omnicom Group as a whole, which includes advertising agencies Impact BBDO and TBWA\Raad, now employs 2,075 people across the region.

Media usage has also been transformed. A total of 7.34 million people are actively online in the UAE, with 93 per cent smartphone ownership and 4.03 hours a day currently spent on a mobile device by the average UAE resident.

We live in an increasingly digitised society and the advertising industry is as much a part of the society from which it emerges as any individual marketer or creative. As such it has responsibilities – not only to inform consumers and to provide choices, but to wield the power that it has responsibly. Just as the industry should both draw from, and contribute to the wider culture of the community around it, so it should reflect the wider aspirations of that community. As Brian Elliott, Chief Executive of Amsterdam Worldwide, once wrote: "Nowhere is it written that advertising has to lower the level of social discourse."

Brands know what consumers want. They know they want to lead healthier lives and to be kinder to the environment. They also know that dishonesty erodes trust. And that once trust is lost it is almost impossible to regain. What's more, such dishonesty not only impacts the future of the advertising and marketing industry, it has an immediate and negative impact on the brands and sectors responsible for that dishonesty.

"The exponential growth in commerce, media and the societal landscape in the region invites advertisers to have greater accountability towards customers as they continue to seek authenticity and value," asserts Dani Richa, Chairman and Chief Executive at BBDO Middle East, Africa and Pakistan, Impact BBDO Group. "And while the communication industry sits in the centre of making meaningful connections between consumers and commerce, ethical infractions have been observed in the form of copyright infringements, big-data exchange, deceptive advertising claims and irresponsible targeting towards children, among other issues."

A total of 7.34 million people are actively online in the UAE, with 93 per cent smartphone ownership and 4.03 hours a day currently spent on a mobile device by the average UAE resident ●

Yet the effectiveness of self-regulation within the advertising and marketing industry has been proven internationally over the course of many decades. Not only does it increase public trust and combat negative public perception, it empowers consumers. Indeed, the key principles on which the foundations of most advertising standards are based globally are there to not only protect consumers, but to provide a system that listens to them. The European Advertising Standards Alliance, for example, has adopted the International Chamber of Commerce's (ICC) code of conduct and operates on the principles that all advertising should be legal, decent, honest and truthful; prepared with a due sense of social responsibility; conform to the principles of fair competition; and not impair public confidence in advertising.

Within the GCC, there is no leading advertising body focused on raising industry standards, although the UAE government is firmly committed to the issue of consumer protection. Dubai Chamber has also been proactive, supporting increased self-regulation in the food and beverage industry, particularly in relation to responsible marketing to children.

The advertising industry's rapid growth has led to a need for industry-wide responsibility. Responsibility that confronts the issues that concern consumers the most, some of which are outlined below.

FALSE ADVERTISING

Some brands continue to pump misleading and deceptive information into the world. Their solution to fighting the clutter of rampant messaging that assaults us all is to deliver advertising based

715
Health Violations relating to false advertising were monitored by the UAE's Ministry of Health & Prevention

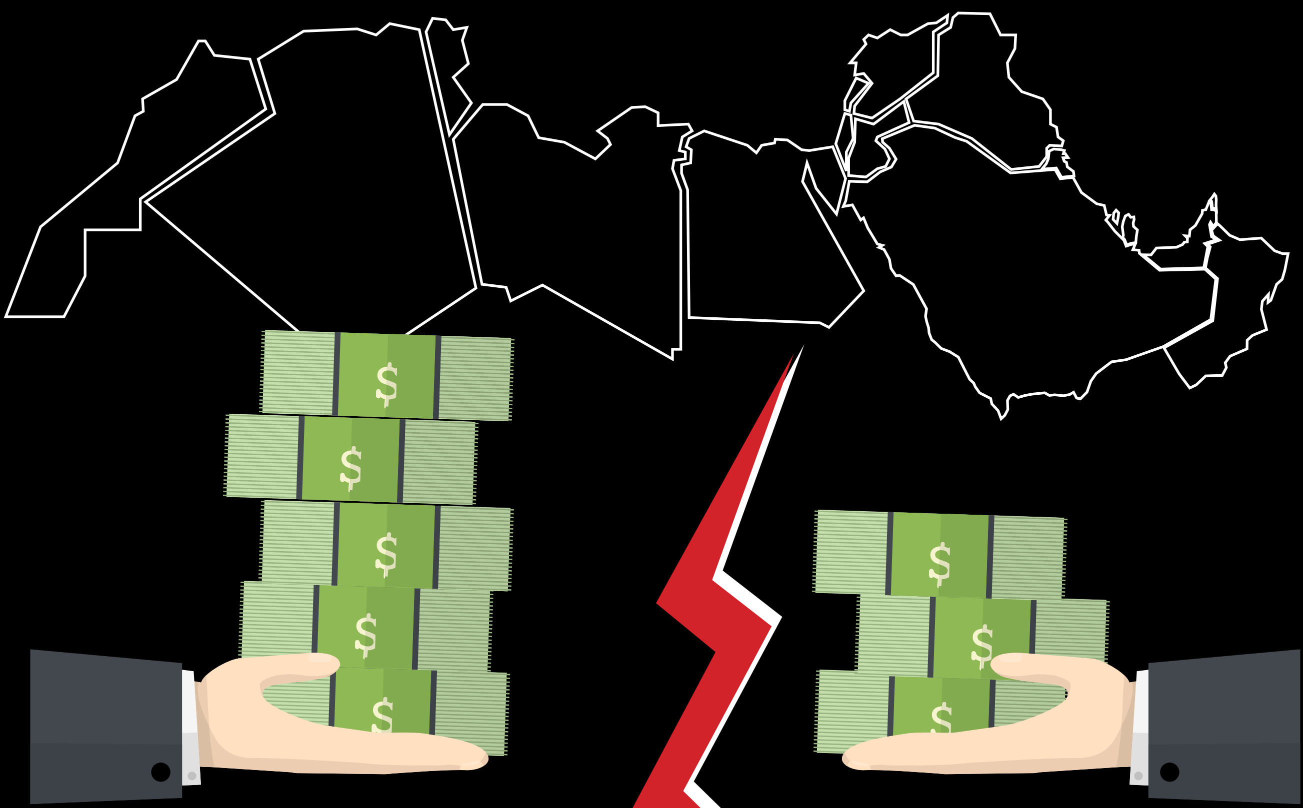
on exaggerations, false claims and outright lies. Sometimes these claims are consciously-made, sometimes they are simply the end result of a system that is neither educated in the subject of ethical advertising nor conscious of the standards that apply to advertisers.

In the UK in June, for example, the Advertising Standards Authority banned a Nurofen ad that claimed different painkillers could target different types of pain. It was, said Mike Colling, the Founder and Chief Executive of MC&C, "something that was without truth, and instead a marketing construct designed to con consumers into paying over the odds for the same product".

Within the Gulf, the issue revolves more around the credibility of endorsers and the misuse of social media to promote unverified health claims. In 2015, for example, an estimated 715 health violations relating to false advertising were monitored by the UAE's Ministry of Health & Prevention, with around 20 per cent of those violations coming via Instagram. As Fiona Robertson and Christina Sochacki wrote in Al Tamimi & Company's Law Update last November: "It is clear that the authorities view online advertising as part of their remit and will be watching such materials closely."

FACTS + FIGURES

Discrepancies in Reporting Advertising Spend Regionally



$5.5 billion

REGION'S ADVERTISING MARKET'S WORTH IN NET ADVERTISING SPEND IN 2015

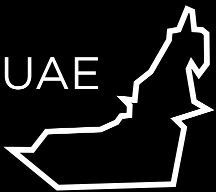
SOURCE: NORTHWESTERN UNIVERSITY IN QATAR (NU-Q)

$3.2 billion

REGION'S ADVERTISING MARKET'S WORTH IN NET ADVERTISING SPEND IN 2015

SOURCE: ZENITHOPTIMEDIA

UAE



$525 million

WORTH IN NET ADVERTISING SPEND IN 2015

500 COMPANIES

operate in the media and advertising space

30%

Number of companies and employees represented by UAE

SOURCE: NU-Q

2,075

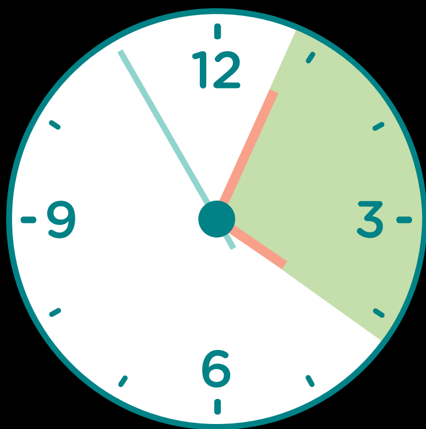
PEOPLE OMNICOM GROUP AS A WHOLE EMPLOYS ACROSS THE REGION

7.3 MILLION

PEOPLE ACTIVELY ONLINE IN THE UAE

93%

smartphone ownership



4.03 hours

a day currently spent on a mobile device by the average UAE resident

Within the real estate and banking industries too lies the scourge of deceptive advertising. Last year the UAE Banks Federation appointed an independent monitor to ensure customers are not misled by false claims relating to interest rates and fees. Similarly, all property ads must now be signed off by Dubai's Real Estate Regulatory Agency before going live as part of a crackdown on property fraud and false advertising.

ADVERTISING TO CHILDREN

All major international advertising and trade bodies pay particular attention to communication that targets children. The ICC, for example, acknowledges that children are a special group requiring particular diligence from marketers in order to avoid harm and exploitation. Among its guidelines, it states that advertising and marketing communications geared to children should be clearly identifiable as marketing, and that communications should not undermine positive behaviour, social mores or parental judgement.

In recent years, however, technology has undermined industry efforts to remain ethical when it comes to advertising of children. The influence of the internet has added another layer of complexity, so much so that new codes of conduct addressing the use of online behavioural targeting in the delivery of advertising to children have been established by the ICC.

The GCC FBA has also committed to helping consumers in the GCC achieve balanced diets and healthier lifestyles via product innovation, improved access to nutritional information, and the promotion of healthier diets and active lifestyles ●

It is in relation to fast food, however, that much concern is centered. Just this month, Bruce Lee, Director of the Global Obesity Prevention Centre at the Johns Hopkins Bloomberg School of Public Health, said that childhood obesity is a systemic problem, of which advertising is a part. Speaking at the Global Crisis of Obesity seminar staged by The Economist in Dubai, he stated that stricter advertising controls for junk food were needed in order to combat rising obesity levels in the country, alongside a shift change in cultural attitudes towards health and fitness.

The GCC Food & Beverage Alliance (FBA), which was formed in 2009 with the aim of rolling out global IFBA commitments across the GCC, has already committed to changing the way that food and beverage products exceeding certain levels of saturated fats, trans-fatty acids, sugars or salt are marketed to children under the age of 12, yet the signatories are limited to multinationals such as Kellogg's, Mars, Mondelez International, Nestlé, PepsiCo, The Coca-Cola Company, Unilever and General Mills. The GCC FBA has also committed to helping consumers in the GCC achieve balanced diets and healthier lifestyles via product innovation, improved access to nutritional information, and the promotion of healthier diets and active lifestyles.

HEALTH

Should the advertising of sugary drinks be restricted to help fight obesity? Should the producers of such drinks be acting more responsibly? It's a reasonable question to ask when you consider that the average person in Saudi Arabia consumes 89 litres of soft drinks every year – a fact that has led the government to request that Coca-Cola and PepsiCo issue health warnings on packs that are sold within the country.

What's more, statistics relating to health in the UAE are frightening. Obesity levels are double that of the world average, with the World Health Organisation revealing that 66 per cent of men and 60 per cent of women in the country are either overweight or obese. Viktor Hediger, the Dubai Director of McKinsey & Company, has previously referred to the country's obesity rate as a 'national crisis' and a 'ticking time bomb'.

There is, subsequently, a high incidence of diabetes and cardio-vascular disease. According to the International Diabetes Federation there were more than one million cases of diabetes in the UAE in 2015, representing more than 20 per cent of the population.

Failure to disclose relationships between a brand and an influencer hurts the credibility of both. Perhaps more importantly, it deceives or misleads, and ultimately diminishes trust between a brand and its consumers ●

Once again, the GCC FBA has sworn to act, committing its members to promoting physical activity and the creation of products that offer healthier alternatives. This includes innovation around new products and reformulation of existing ones.

INFLUENCERS

The rise of social media influencers has been a worldwide phenomenon, not just a regional one. Celebrities are born every week on Instagram, YouTube and Snapchat. Stars such as Dubai-based Huda Kattan, the queen of beauty, with her 15.6 million Instagram followers. But as advertisers increasingly look towards influencers to help sell their products, both brands and influencers are not only losing their claims to authenticity, they are also muddying the waters of transparency.

One of the main principles of ethics in advertising is identification. Any communication that is classified as marketing or brand communication should be identified as such. Non-disclosure of paid commercial content is considered illegal in many countries, and if influencers are paid to showcase a product or service they should clearly state this to be the case. And yet none do so within the GCC, relying purely on hashtags as a means of driving traffic and brand awareness without disclosing financial gain.

It is a global problem, irrespective of individual codes of conduct. A study carried out earlier this year by Takumi, an app that connects Instagram influencers with brands, found that six out of 10 marketing professionals in the UK were not fully aware of the Committee of Advertising Practice code of conduct regarding influencers. More than a third chose not to adhere to it at all due to a lack of understanding or a reluctance to be transparent. And yet failure to disclose relationships between a brand and an influencer hurts the credibility of both. Perhaps more importantly, it deceives or misleads, and ultimately diminishes trust between a brand and its consumers.

CONSUMER PRIVACY & DATA

"People are aware that their data is being collected," Marie Stafford, Director of Consumer Intelligence, Trends and Insights at J.Walter Thompson told Campaign earlier this year. "But they're unclear to what extent, or to what end."

Privacy is a big issue. Hertz's 'Generation K' cites data privacy as a major area of concern, with the least trusted brands those that are associated with issues of data privacy. "It's not that this generation won't give up data, but there is an exchange to be made," she says. "They want the value proposition to be made explicit and they want the ability to opt out without impunity."

The exploitation of consumer rights such as privacy have been complicated by online behavioural advertising (OBA), whereby the collection of information has enabled advertisers to deliver more relevant adverts to a particular user. Yet the ICC states that clear and conspicuous notice regarding if and how OBA data collection is used is a must.

The likes of Google have been seeking to combat concerns over the use of personal data, although since June Google has been merging personally identifiable information from Gmail and YouTube with browsing records from the web. Researchers at the Centre of Interdisciplinary Law and ICT and the Computer Security and Industrial Cryptography department at the University of Leuven, and the media, information and telecommunication department at Vrije Universiteit Brussels also reported last year that Facebook was acting in violation of European law by tracking the computers of users without their consent. However, the launch of Google's Safety Center was designed to help keep the web safe for everyone, while Google Take Action seeks to keep up the momentum behind surveillance reform.

THE BENEFITS OF SELF-REGULATION

A survey released by the World Economic Forum and the public relations agency Fleishman-Hillard in 2010 found that three-fifths of chief executives believed brand and reputation represented more than 40 per cent of their company's market capitalisation. "In other words, a business's most valuable asset is its good name, its brand and reputation," ran an article in Forbes magazine the same year. Last year, the global information, data and measurement company Nielsen stated that "reputation is increasingly being recognised as a fundamental business asset that companies can leverage to maintain and drive increased business. Around the world, a company's reputation is an undeniably important lens through which purchase decisions are made".

Reputation matters. Ethics matter. The importance of self-regulation therefore is as clear as day. Not only does it help build consumer trust in brands and assist in the building of brand loyalty, it improves sales and strengthens market share. "Whether it's because of a company's sustainability initiatives, social media efforts, tech savviness or even its physical location, 'Opinion Elites' (people who are more informed, engaged and active when it comes to social and business issues) around the world are increasingly inquisitive and knowledgeable about the companies they choose to buy from," ran the Nielsen report on reputation's role in unblocking brand value. "In fact, there are signs that they've never been more interested in the reputation of companies they do business with."

Self-regulation lies within the framework of corporate social responsibility. Irresponsible marketing damages consumer confidence and provides little or no sustained return on advertising investment, whereas the opposite is true, even if 'bad' advertising only accounts for a small percentage of the whole. The old adage that people forget the good and remember the bad remains firmly in place, whether advertisers like it or not.

SELF-REGULATION VS LEGISLATION

Whose responsibility is it to ensure that individual members of society eat well or lead a healthy lifestyle? Are governments responsible for the environment, or corporations? So what if brands

over promise and under deliver? Isn't the gullibility of the consumer at fault?

Self-regulation works best within a regulatory framework. In other words, advertising standards – what Stéphane Martin, Chairman of the European Advertising Standards Alliance, would classify as 'soft law' – are designed to complement government regulations (hard law), with the costs of developing, implementing and enforcing those advertising standards carried by the advertising industry ecosystem.

Government regulations within the UAE are extensive. Advertising is regulated and controlled through a combination of provisions drawn from laws focusing on the protection of consumers and the activities of businesses that may constitute unfair competition. "It is important for advertisers to take note that their advertising activities are regulated in the UAE through a complex web of laws and regulations that demand of them to ensure the accuracy of communications with customers," wrote Waldo Steyn in Al Tamimi & Company's Law Update. "When advertising relates to regulated products and services such as healthcare or tobacco, the level of regulation increases significantly, as does the associated sanctions flowing from non-compliance."

The question of whether government legislation should be responsible for the behaviour of the advertising industry, however, is a pertinent one. Why? Because imposed regulations can cause industries to shift resources from innovation towards compliance.

In early 2015, a paper by the UAE cosmetics industry argued that Ministerial Resolution No. (430) of 2007 Regulating Health Advertisements in United Arab Emirates placed unwarranted restrictions on cosmetics manufacturers and operators in the country, stating that it hindered their ability to "intuitively and swiftly advertise their cosmetic products in the country". At the heart of the industry's concerns stood the UAE's convoluted regulation structure. It is the only country in the world where cosmetic products are regulated by three different governmental bodies, with requirements frequently overlapping. "This very complex set-up results in a large additional burden on the cosmetics manufacturers and operators in UAE, where they suffer from multiple approvals and repetitive work that results in the highest operational costs compared with the rest of the geographical region, and probably the globe," noted the paper.

At the heart of self-regulation is the belief that such regulation protects consumers and brands without stifling innovation. There are limitations to self-regulation of course – such as the negatives associated with free-rider companies who benefit from a regulatory regime without paying any of the costs – but agility and fluidity of response are key drivers for a self-regulating industry.

"Advertising works in two ways," says Martin. "Through freedom of commercial speech and respect for the consumer. But if respect for the consumer is thought to be the sole responsibility of hard law, then freedom of commercial speech is affected.

"We are part of society and we have to take on the responsibility for ethical advertising and behaviour ourselves. Sending the right messages, especially when it comes to health and wellbeing, is of the highest importance. Advertising has to be loyal, truthful, but also responsible in many matters relating to the culture of the audience. But it also needs freedom of movement."

IN SUMMARY

The advertising industry in the GCC is at a stage in its evolution where the onus is on ethics and social responsibility. It's a cliché, but it's true: with great power and influence comes great responsibility. Public trust in the credibility of advertising can, and should, foster brand loyalty, but only if advertisers respect their consumers.

"Self-regulation starts with a mutual promise between clients and agencies," says Richa. "We always encourage partnerships where clients align with industry standards in their category and at the same time believe that long-term success of a relationship starts with an internal standard of codes, principles and practices that must be adhered to. These internal codes coupled with industry standards avoid deception, confusion and manipulation of the truth. And the whole collaboration works best when advertisers know their business and play by the rules, while we represent consumer motivation and behaviour to validate ethical alignment of a marketing campaign."

Self-regulation is in the public interest. It is also in the interest of brands and their agencies, because if you don't have the trust of the public, you don't have anything at all.

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