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Government Regulation of Advertising in the Eurasian Economic Union: Contradictions of Public Policy and Advertising Ethics

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ABSTRACT

The article deals with the problems of government regulation of advertising industry in the member states of the Eurasian Economic Union (EAEU). The main purpose of the study includes evaluation of attitudes to the moral issues in advertising practice as well as government policy on the problem of unethical advertising. The study applies methodological framework of policy analysis toward the regulation of unethical advertising in the countries of the EAEU. The authors find out that there is no coherent public policy in this field in the EAEU. While Russia attempts to apply international standards with self-regulation mechanisms in order to deal with unethical advertisements, the other member states prefer to use strict governmental control. In Russia, there are two opposite tendencies: While mass media assign part of regulation to the government, the government does not want to adopt this role. The courts in Russia prefer reactive regulation of advertising, usually trying to evade even obvious law cases. At the same time, facing no resistance from either governments or societies, some part of advertising industry tends to abuse ethic norms. The authors claim that this situation undermines the process of integration and differs significantly advertising industry in the countries of EAEU from advertising, for example, in the member states of the European Union.

Keywords: Eurasian Economic Union, Advertising, Government Regulation, Ethics, Policy Analysis

JEL Classifications: M3, K2, F2, F6

1. INTRODUCTION

Economic and political transformations in post-soviet states affect many aspects. Advertising, being one of them, differs life in post-soviet society from soviet one significantly. Advertising industry develops very rapidly in all post-soviet states. For example, in 1991 (the year of Soviet Union collapse) Russian advertising market was about 3 million in US dollars, but today it is ranked among top-10 advertising markets in the World and goes around 10 billion in US dollars (Communication Market in Russia, 2010). Advertising industry in post-soviet countries runs under strong influence from international trends and professional standards, successfully copying all techniques and methods from Western practices (Deconinck and Swinnen, 2012).

However, contemporary advertising tends to be very sensitive for moral issues, applying for its theory and practice very normative terms like “corporate conscience” (Bronstein, 2012), “self-regulation” (Carusi and De Grandis, 2012), “reputation” (Ivancin, 2012), “moral responsibility” (Lee and Nguyen, 2013), “enhanced advertising ethics” (Snyder, 2011), etc. Thus, one should expect adoption of ethical standards of advertising in the post-soviet countries. However, advertising industry in the area has its unique trend in this aspect. It deals with unsettled standard for ethical advertisements. This issue corresponds strongly with well-known problems of business ethics in the post-soviet countries. For example, there is a great number of studies in the field of “corrupted” business practices in Russia (Galligan and Kurkchiyan, 2012; Ledeneva, 2006; Shlapentokh, 2013). Jaffe and

Tsimerman (2005, p. 95) report “low levels of ethical standards among Russian managers.”

In Russian language literature moral issues of advertising are regularly considered as a problem for economic and cultural development (Akopyants, 2012; Dorskii, 2008; Fedotova, 2012; Ivleva, 2010; Stepanenko, 2012; Sirotina, 2012; Ulyanovsky, 2011). For example, Akopyants (2012) points out the reasons for unethical advertising in the post-soviet countries. The first reason is economical: Business tends to gain profit at the expense of social responsibility. The second reason deals with imperfections of government and public control. Third reason reveals the ignorance of cultural differences. Direct copying of advertisements sometimes causes cross-cultural breaches, which weakness public sense of moral values.

This article focuses on the problems of governmental regulation, self-regulation and public control of advertising industry on the issues of ethics in the member states of the Eurasian Economic Union (EAEU): The Russian Federation (Russia), the Republic of Belarus (Belarus), the Republic of Kazakhstan (Kazakhstan), and the Republic of Armenia (Armenia). The EAEU, being a descending organization for the Commonwealth of Independent States (CIS), was established in 2010 and is considered to be a form of economic integration in the area of North Eurasia with the aim on the boosting of economic growth and social development. One should expect close cooperation and significant unification in all aspects of economics in the EAEU.

The study aims to explore politics of advertising regulation in the EAEU. Obviously, advertising industries in the member states of the EAEU ought to have similar tendencies. Taking into account the tendency of international standard’s localization, the authors propose a working hypothesis about existence self-regulation practice in advertising in the EAEU. Self-regulation in advertising became an issue in 1952 (Geller, 1952). Though self-regulation has its weak sides (Hastings et al., 2010), the contemporary best practices show advances of self-regulation upon governmental regulation (Parsons and Schumacher, 2012). Sometimes a model of the Great Britain is believed to be a best way of self-regulation in advertising industry (Muela-Molina and Perelló-Oliver, 2014).

2. METHODOLOGICAL APPROACH

The authors believe that the best methodological basis for this study is a policy analysis, which is described in details Bardach, 2012; Dunn, 2003; Fischer et al., 2007; Nagel, 1999; Patton and Sawicki, 1986, and many others. Modern public policy studies usually apply advanced techniques like game theory or rational model (Dye, 2007). In case of post-soviet studies, it is hardly to be “public” or “rational” versions of policy analysis because of “non-public” and “reactive” politics in the area. Thus, researchers have to use classical process model to gain some understanding. The model describes a given policy by analyzing results of subsequent phases of policy process from problem identification, through examination of alternatives, political decision, and implementation to evaluation. In case of post-soviet studies sometimes, it is impossible to examine stages of policy process

properly for unavailability of information. Therefore, researchers have to reconstruct or deduct possible developments of policy. In this way, the most problematical phases in post-soviet policy are stages of problem identification, examination of alternatives, and political decision.

This study bases on the open sources like research articles, mentioned in the introduction, advertising laws, and law enforcement practices in the countries of the EAEU. All investigated states have anti-monopoly regulation bodies with web sites to publish important information about law suites and jurisdictional precedents. Very helpful for the study was the analysis of the information from web site of the Federal Anti-Monopoly Service of the Russian Federation (FAS). Also there is a web-site of the Coordinating Council on Advertising at the Interstate Council for Anti-Monopoly Policy, established by the member states of the CIS (<http://sovetreklama.org/>). This Coordinating Council on Advertising during its existence managed to provide 14 meetings and to publish electronic journal “The Herald of Coordinating Council on Advertising.” Special mention should be made to the issued by the Council in 2013 comparative study “Review of the activities in the field of advertising in the member states of the CIS” (Review of the activities in the field of advertising in the member states of the CIS, 2013). In order to evaluate public reaction on the problems of unethical advertising the study uses the help of the “Medialogia” database, an automated real-time media monitoring and analysis system. The “Medialogia” scans all Russian national media and on-line sources along with other countries of the CIS. The research with the “Medialogia” shows popularity of the topic on “ethics” in public discourse.

3. ETHICAL ISSUES IN ADVERTISING: THE LEGISLATION OF THE EAEU

In accordance with Article 61 of the Treaty on the EAEU “member states shall conduct coordinated policy in the field of consumer protection, aimed at creating equal conditions for nationals of Member States to protect their interests from unfair business entities.” One element of this policy is the legislative regulation. All member states of the EAEU got advertising laws: The Law of the Republic of Armenia “On Advertising” (1996), the Law of the Republic of Belarus “On Advertising” (2007), the Law of the Republic of Kazakhstan “On Advertising” (2003), and the Russian Federal Law “On Advertising” (2006). These laws have certain similarity of approaches to advertising ethics, but we can observe some differences. For example, the laws of Belarus and Kazakhstan have the concept of “unethical advertising.” According to Belorussian law unethical advertisement:

- Includes text, visual and (or) audio information that violates generally accepted norms of morality and ethics, including offensive words, comparisons and images with respect to race, nationality, appearance, age group, sex, language, profession, social category, religious, political, or other beliefs of citizens;
- Defames objects that are historical and cultural values;
- Denigrates state symbols (flag, emblem, anthem), official monetary unit of the Republic of Belarus or other states, international organizations, religious symbols;

- Defames any organization or citizen, any activity, profession, product;
- Discredits organization or citizen, do not use the advertised goods;
- Contains a negative assessment of the object of advertising;
- Contains a comparison of the advertised goods with the goods of another organization or another citizen, the advertised organization with another organization, the advertised results of intellectual activities with other results of intellectual activity advertised contests, lotteries, games, other playing, advertising, and other activities with other betting contests, lotteries, games, other playing, promotional and other events, bets;
- Introduces consumers misleading advertising, including through imitation (copying) of the total composition, text, images, music and (or) the sound effects used in the advertising of a publisher;
- Contains the words “gift,” “free,” “0 (zero) rubles,” or other words that give the impression of providing services (works), free of charge, if the provision of such services (such work) requires her to pay.

The Law of the Republic of Kazakhstan reads “Unethical advertising” as material that: (1) Contains textual, visual and audio information that violates generally accepted standards of humanity and morality through the use of insulting words, comparisons and images with respect to race, ethnicity, language, occupation, social status, age, gender, religious and political beliefs of individuals; (2) discredits objects of arts, culture, historical monuments, which are national or global heritage; (3) denigrates state symbols, the national currency of the Republic of Kazakhstan or a foreign currency, religious symbols.

The Law of the Republic of Armenia contains similar rules, prohibiting advertising which “violates decency of advertising,” namely: (a) Discredits the conventional and national norms of morality; (b) contains insulting expressions, comparisons and images with respect to race, nationality, profession or social origin, age group or sex, language, religion or belief; (c) directly or indirectly discredits state symbols (flag, anthem, currency and so on), or expresses disrespectful attitude towards them; (d) discredits individuals and legal entities, as well as industrial, commercial or other activity, profession, and so on.

It may be noted that Art. 8 of the Law of Armenia, unlike the Belarus and Kazakh legislation does not protect the cultural heritage, and a ban on their defamation is not in the other articles of this law. The Law of the Russian Federation has no concepts of “unethical” or “obscene” advertising. Thus, ethics is interpreted differently within the EAEU. Russia refuses to interfere in the sphere of ethics, which applies to the self-regulation of civil society. In Belarus, on the contrary, the rules of ethics are established and supported by the state.

In the laws of Belarus, Armenia and Kazakhstan rules on self-regulatory organizations are missing. Only Russian law encourages the creation of self-regulatory organizations in the field of advertising. Russian law contains a chapter 4, devoted

to self-regulation in advertising. Self-regulating organizations have the right to exercise control over professional activity of their members’ rules in the field of advertising, including the requirements of professional ethics. In Russia, there are a big number of non-governmental organizations to represent the advertising market. The largest of these is the Association of Communication Agencies of Russia (ACAR), which, in particular, is committed to developing, implementing voluntary ethical requirements for advertising and ensure control over their execution.

Despite the general tendency of the Russian state to pass ethical regulation in the hands of civil society in the law “On Advertising” of the Russian Federation includes provisions overlapping with the definitions of unethical advertising in Belarus and Kazakhstan: “In advertising it is not allowed to use expletives, indecent and offensive images, comparisons and statements, including with respect to gender, race, nationality, profession, social category, age, language of man and citizen, the official state symbols (flag, emblem, anthem), religious symbols, objects of cultural heritage (historical and cultural monuments) of the Russian the Federation, as well as cultural heritage sites included in the World Heritage List” (On Advertising, 2006, Ch. 6, Art. 5). Thus, we can see the contradiction between the desire of the Russian government to transfer control on advertising ethics to the hands of self-regulating non-governmental organization and the *de facto* control over unethical advertisements.

4. PUBLIC ENGAGEMENT IN REGULATION OF ADVERTISING IN THE EAEU

The possible explanation of this contradiction deals with the state of public consciousness in Russia. To test this idea we can study mentions of ethics in the Russian media with the help of the “Medialogia.” This database can be easily searched by keywords. We run search request with keyword “ethics.” The search returns total 320431 mentions of ethics since December 31, 2003 till December 31, 2013. The results of a search query automatically ranked on popular topics. The most popular topic with ethic connection is “Russian Federation,” it has about 125000 mentions. The most important observation in our opinion is the fact that among the top newsmakers about moral issues almost there are no public figures and organizations. In the first hundred mentions of ethics there is only one religious organization: The Russian Orthodox Church (14th place). The other non-governmental organizations are four political parties, represented in the State Duma of the Russian Federation, the Russian Football Union (24th place), and the Union of Journalists (94 place). Among public figures, who do not occupy governmental positions, there are only two figures in the top-100: Patriarch Kirill (41th place) and opposition leader Alexei Navalny (58th place). Thus, the ethical discourse in Russia is completely usurped by the State and the organizations associated with the government is stable.

If we take into consideration the organizations, which can control ethics of advertisements in Russia, when we can observe

the same trend: The FAS as a governmental branch takes on the 118th place, while self-regulatory organization ACAR is at 893rd place. Based on this distribution, Russian society does not expect from advertising to be a market with self-regulation: It binds all their hopes on the establishment of standards of ethics with the activities of the state. Analyzing the Russian self-regulating organizations in advertising, we find out that they are not willing to independently monitor compliance with ethics. Thus, the ACAR has no special committee on ethics. The website of ACAR mentions “ethics” only eleven times with no real actions about unethical advertising (<http://www.akarussia.ru>). The authors of the study were really stunned that the ACAR has no task of responding to the consumers’ dissatisfaction by unethical advertisements. The consumers and citizens can complain about unethical advertising only to the government agency: The FAS.

In order to establish cooperation with industry professionals, the FAS has created the Expert Council, which includes representatives of the ACAR as well. The Board of the Expert Council meets twice a year on average by the initiative of the FAS to consider the issues that the government has prepared. Decisions of the Council are consultative. Similar councils have been established in some regions of Russia in the regional offices of the FAS. This practice can be considered as an element of co-regulation, but the problem of self-regulation does not address this practice. A rare example of self-regulating organization, which is ready to take responsibility for decisions in the field of unethical advertising, is the Public Advertising Council of St. Petersburg (<http://spb.sovetrekklama.org>). Thus, we see that the Russian government seeks to transfer the responsibility for complying with the ethics of advertising self-regulatory organizations, but the professional community and the general public are not ready for that.

In other countries of the EAEC, as we already noted, there is no legally expressed will to encourage self-regulation and the self-regulating organizations do not even consider ethical standards as its mission. One can verify this statement by studying the sites of the leading self-regulating organizations in advertising in Kazakhstan - Kazakhstan Federation of Marketing, Advertising and PR (<http://www.kfmr.kz>) or Belarus - Association of Advertising Organizations (<http://aro.by>).

5. CONCLUSIONS

In the beginning of the article, we stated that experience of the European Union in the field could be very useful for the countries of the EAEU. The reason deals with the fact that the member states of the EU have chosen not to develop uniform legislation in the field of advertising, but to bring together the system of self-regulation. The current system of self-regulation of the EU arose in 2002, when The European Advertising Standards Alliance (EASA) became the single, authoritative voice of advertising self-regulation in Europe. EASA is active and transparent organization, which regularly publishes results of its work on-line (<http://www.easa-alliance.org>). According to EASA¹, there is only one CIS

country in which the self-regulation in advertising is in progress: The Russian Federation. The others run without attempts to apply self-regulation in advertising.

In Russia, we find two opposite tendencies: While mass media, professional community of advertisers and society in general assign part of ethics regulation to the state, the state does not want to adopt this role. Practice of FAS councils, which is supposed to help with co-regulation, sometimes causes more problems than it resolves. In the EAEU, like most of the world, the word “ethics” is closely followed by the word “regulation” (Carusi and De Grandis, 2012). However, in the countries of the EAEU there is a situation, when word “ethics” is tied to the word “government” indissolubly. As a result, traditional discussions about the significance of ethics in the context of effective communication, security and evolution of professional areas, society prosperity and ethical symmetry, following human and religious regulations and turn out to be powerless in the face of indifference of those who have voting rights on this issue.

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1 [http://www.easa-alliance.org/About-EASA/EASA-Members/Non-](http://www.easa-alliance.org/About-EASA/EASA-Members/Non-European-Members/page.aspx/147)

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