

# British Brands

THE NEWSLETTER OF THE BRITISH BRANDS GROUP

## They think it's all over

Martin Glenn, *Birds Eye Iglo Group Ltd*

We have to face it. Brand management is not what it used or needs to be. However something can be done. I wish to highlight the new pressures that brand managers are facing and, importantly, what can be done about them.

I sense a diminishing belief that brand management can lead an organisation today as it could in days gone by. How do we restore self-belief? How do we restore the confidence in our brand managers and how can brand management reclaim its authority to manage brands positively?

There are five negative forces that have led to this lack of confidence and authority in brand management.

### The value paradox

An old problem is the continued growth of disintermediation. We have an interesting polarity with people seeking some form of accessible luxury, seen in the popularity of luxury goods, while at the same time trading down. In those areas that people do not judge to be valuable, low-cost offerings are doing well, such as Yo! Sushi and budget airlines. Margins are being squeezed, making life more difficult for the marketer.

### Diffusion of technology

Another ongoing factor is the increasingly global nature of business and the technical diffusion that results. Good ideas that were once proprietary can now be replicated very quickly. As a result creating a real functional, tangible USP is harder than it used to be.

### Talent for brand management

An uncomfortable feature of brand management today is the siphoning away of talent into other sectors. Today graduates have more choice and sectors such as financial services and consultancy pay better. This has affected the flow of talent into marketing so that, while we still get good people, we do not get them in the same quantity.

Both marketing departments and advertising agencies are just less well resourced than they used to be. There are fewer people being asked to do more – and probably more general – things. There is a paradox in the fact that we have more and better data than ever but less capability to do anything with it.

### Closer public scrutiny

A bigger issue even than that is the challenge to marketing's licence to operate. The world has changed, with civic society increasingly concerned about how business is transacted and how products are made. These are now clearly elements of how a brand is evaluated and assessed.

Given this external pressure, business has had two responses. First, and probably the most damaging, it has simply ignored it. That is a mistake. The other response is to ingratiate, running corporate social responsibility initiatives that open up parts of the business to the pressure groups. This has gained CSR a bad reputation, raising questions over its ability to make the case in response to society's legitimate concern over how we operate. Good CSR is integrated in the business,

not a damage limitation exercise managed in isolation by the public affairs department.

### The rise of private equity

The final issue is the rise of private equity. Astonishingly, around a quarter of the UK food industry is now owned by private equity. In the minds of many, private equity is seen as short-term while brands are long-term. In other words a marriage made in hell.

There is no doubt that private equity changes the rhythm and tone of brand management, but it is actually for the better. It presents marketing with a chance to become more accountable. To hold your disbelief for a moment, in the first year the Birds Eye Iglo business increased marketing expenditure by 7%.

So these are tough challenges. Is it curtains for the marketing organisation? Is it time to recast the role of brand manager to 'reputation'

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# From the Chairman

John Bebbington, *Chairman, British Brands Group*

It has been a while since the last edition of *British Brands*, reflecting the Group's recent focus on two crucial policy initiatives, the UK's implementation of the Unfair Commercial Practices (UCP) Directive and the ongoing Competition Commission investigation into the groceries market. Both have direct relevance to companies keen to see vigorous, fair competition and once again the Group has been at the forefront of both debates, being the only organisation to present the perspective of brand manufacturers.

Taking each in turn, the UCP Directive is an opportunity to address a long-standing sore, that of competing products packaged to mimic so closely the designs of familiar brands that consumers are misled. John Noble in 'Packaging to deceive' explores the practice in some detail, explaining why current UK legislation has proved so ineffective.

While the Directive is potentially helpful, its results will depend on effective civil enforcement. Brand manufacturers themselves are best placed to perform this role, being able to identify when packaging designs are sufficiently similar to mislead consumers. They also have a strong vested interest in ensuring their consumers are not misled. Civil enforcement by affected companies would deliver a high level of consumer protection at absolutely no cost to the taxpayer.

Regrettably and disappointingly the Government does not share this view, despite the Group's robust case. It has restricted enforcement to public bodies such as the OFT and Trading Standards who do not see this as a priority area, considering it more a dispute between competitors than something to which they should devote valuable and already over-stretched resources. The Government's approach is obtuse, as it is all too aware both of the problem and the practical difficulties of tackling it in the UK, and this is something we have raised on members' behalf with the European Commission.

The Government now proposes a three year delay to see how the Directive works. This is unacceptable. It will become apparent very soon whether the OFT and Trading Standards have an appetite to enforce. If they don't, Government needs to act immediately.

Turning to the Competition Commission groceries market investigation, in February we saw the publication of its provisional decision on remedies. In addition to remedies relating to land holdings and local competition, a stronger Groceries Supply Code of Practice is proposed to improve relationships between retailers and their suppliers, and an ombudsman to enforce the Code. This is of significance to all suppliers as it has the potential to address the transfer of unexpected costs and excessive risks from retailers to suppliers, which is the adverse effect on competition identified by the Competition Commission.

As in the case of the Unfair Commercial Practices Directive, its effectiveness depends on its implementation. It is encouraging that the remedy will not be wholly reliant on suppliers complaining, a significant flaw with the current code (suppliers having too much to lose). The ombudsman, as proposed, will have investigative powers to ascertain whether anti-competitive treatment of suppliers is occurring. It will be important however that the ombudsman has the full and active support of the OFT, to ensure full co-operation and compliance with requests and, above all, full observance of the strengthened Code.

Much is at stake as we can't afford yet another market investigation if this remedy fails. Similarly we all desire a competitive framework which focuses the attention of the whole supply chain on delivering value, diversity and innovative solutions to consumers rather than on retailers' exploitation of suppliers. This is a goal worth pursuing. Let's hope the Competition Commission does so in its Final Report.

Tensions between large retailers and their suppliers are of course not confined to the groceries market. On 9th February *The Grocer*

ran a story on Boots imposing new terms on its suppliers, requiring that from April 2008 invoices will be paid 75 days from the end of the month of invoice and, in addition, 2.5% will be deducted from suppliers' invoices (termed a 'settlement discount'). The result is a massive imposition of cost on suppliers.

Such terms would, in the context of the Competition Commission's groceries investigation, potentially represent an adverse effect on competition if imposed by grocery retailers. Boots however falls outside this investigation and faces no restraint on such demands. The implications for consumers are clear however. As suppliers' costs rise, consumers will lose out through fewer, leaner promotions and potentially increased prices, notwithstanding the longer term impact on suppliers' ability to invest and innovate. If such practices persist, there is a strong case to extend the Competition Commission's provisional remedy to other sectors where there are significant levels of concentration.

It is clear from the past six months that brand manufacturers face continuing challenges and that the need to work together to influence underlying policy has never been greater. The Group has addressed these sometimes sensitive issues in a transparent way, with our submissions available for all to see on our website ([www.britishbrandsgroup.org.uk](http://www.britishbrandsgroup.org.uk)).

On a final note, I am delighted that Richard Reed, a founder of innocent drinks, has agreed to give this year's Brands Lecture. All too often policymakers believe brand-building to be the preserve of global companies with multi-million pound marketing budgets. Richard is well-placed to put them right.



# Branding's contribution to health and well-being

Philip Sheppard, *European Brands Association (AIM)*

The health and well-being of any population has a significant bearing on both its economic performance and social capital. This is as true for Europe as anywhere else. Moreover, long-term demographic, social and economic trends, including an ageing European population and rising rates of obesity, mean that health and well-being will continue to be a significant policy focus at national and international level for the foreseeable future.

Raising the average number of years that individuals in Europe will live without disability (the Healthy Life Years indicator) is a primary health goal for the European Union. Moreover, the Istanbul Charter on counteracting obesity calls on stakeholders to take action against obesity, which is recognised as one of the most serious health problems facing Europe. The European Commission sees Healthy Life Years lived by EU citizens as a solid indicator of economic competitiveness but recognises that numerous actors have a role to play in achieving policy goals, from government agencies and health providers to schools and community groups.

Brands can contribute through the goods and services that they provide to individuals, the interventions they make in product development, and their ability to communicate important health and well-being messages to consumers. Brand producers therefore see themselves as 'partners for health and well-being'.

Brand producers have incorporated many different initiatives into their businesses over many years to promote and improve people's lives, improving awareness of the choices available and enhancing the image of healthier lifestyles. AIM, the European Brands Association, with the help of Henley Centre HeadlightVision, has now undertaken a review of these initiatives with a view to better understanding what is being done and to establish good practice. The consequent report is based around a series of

case studies of existing interventions, with the aim of stimulating further good practice amongst brand producers.

The report outlines the great variety of different ways in which brands can contribute to health and well-being goals:

- Through the close relationship they share with their consumers, brands can encourage individuals to see health and well-being as aspirational and desirable, encouraging positive behaviour change
- Brands empower people to make healthy lifestyle choices through providing information and advice
- Brands make a significant contribution to ongoing research and also engage in partnerships with NGOs, physicians or researchers, encouraging healthy living
- Brands provide a wide range of professional training and research activities, both to their own employees, to others involved in the supply chain, and more widely to professionals making use of their products
- Many examples show how effectively brands can 'stretch' their core offering, reformulating products and supporting initiatives which extend beyond the 'traditional' space occupied by the brand
- There is more than one way to achieve a healthy balance, and lifestyle is a matter of choice for the individual. The huge range of products, promotions and exercises outlined in the report show how brands provide a great range of different options for consumers.

Although there is no single path to health and well-being, and individual consumers are free to choose the extent to which they engage with these issues, the great variety of approaches in the report demonstrate just how brands are able to promote health and well-being issues to consumers in many different ways.

In April, AIM issued a Charter 'on Brands for Health & Well-being' in which signatories commit to making healthy choices an integral part of their commercial activities, from product design to production, marketing and sales. While the Charter will not revolutionise product design, marketing or sales overnight, it sets in motion a process that commits companies to using their brands and the strength of their marketing to promote healthy lifestyles and consumer choices. As Andrew Morgan, Diageo's President for Europe and the current President of AIM, said, 'Like CSR and our commitments to environmental protection, the Charter signals that health and well-being of consumers become central to our competitiveness.'

The Charter has been well received by the European Commission, with the Commissioner for Health Androula Vassiliou, in one of her first public statements, welcoming the fact that 'companies have decided not simply to talk about health, but to integrate it in marketing and product development activities, making health part of the strategic vision of some leading players in Europe.'

The Charter's unique quality lies in its effort to promote positive choices by consumers themselves and over 50 leading consumer-product manufacturers have already signed it, including A G Barr, Coca-Cola, Colgate Palmolive, Diageo, GlaxoSmithKline, Kimberly-Clark, Procter & Gamble Oral Care and SC Johnson. The Charter recognises that European consumers are among the most sophisticated and demanding in the world and as result they increasingly expect the products they buy to reflect broader objectives, whether the option of using more environmentally sound homecare products or purchasing healthier food products.

The report *The contribution of Brands to Health and Well-being in Europe* and the Charter can be downloaded from [www.aim.be](http://www.aim.be).



# Are Consumers'

Don Edwards, *Don Edwards & Associates Ltd*

The Competition Commission investigation into the UK groceries market is crucial for shoppers, retailers and suppliers as it will influence significantly the sector for the next dozen years or more. While the Commission's focus is on ensuring this market works well for consumers, it is striking that the voice of consumers has not been heard as vocally as that of some other interests in this investigation.

Without this consumer perspective, how can it be judged how the market is working? This prompted the British Brands Group to commission comprehensive research to establish the extent to which the food shopping needs of the UK consumer were being met by the current retail offer. This question is vital for brand manufacturers, who seek to have their products available when, where and in the format shoppers prefer. The findings were submitted to the Competition Commission in July 2007.

## The disadvantaged shopper

Academics have pointed towards changes in the structure of the UK population and hypothesised that there may be groups of consumers who will be more dissatisfied than others by the increasing scale of the major grocery retailers.

The UK's four largest multiple retailers control almost three quarters of the grocery market and operate in a broadly similar manner. The overall number of grocery outlets has declined and the number of stores in the ownership of the four largest chains has more than doubled since 2000.

The growth of these chains has been based on an adequate appeal across a wide product range to a broad customer base. The question remains whether the quality of retail product supplied by these chains is comparable, or simply adequate enough, to deter customers from shopping in more than one store.

Consumers are not all alike and it is insulting to assume they are one homogeneous body who can be satisfied by a single grocery retail offering. Amongst other things, consumers differ according to their location, store proximity, income/wealth, tastes/preferences, family size, age, accessibility, and time

constraints. Less mobile consumers (e.g. the elderly, disabled, and non-car owning) without easy access to large grocery stores may not only face less choice but may not be able to access the lower prices, instead being obliged to rely on increasingly disadvantaged smaller retailers (where available).

The British Brands Group study sought to identify who these consumers might be and establish how many of them there are. If it could be established that they existed in significant numbers, then they would speak to them directly to find out if the current grocery retail offering was in fact providing them both qualitatively and quantitatively with what they need or if they were to be isolated further as the major chains continue to increase in scale.

## The research structure

The BBG research was carried out in three stages in the spring of 2007:

### Stage 1: Desk research

**Objectives:** To study UK population trends to identify significant groups which are projected to grow. This was achieved using government statistics and other third-party research.

### Stage 2: Qualitative research

**Objectives:** Focus group discussions to establish the grocery shopping needs, attitudes and preferences of these groups.

### Stage 3: Quantitative research

**Objectives:** Nationwide surveys to measure the extent to which the needs of these consumer groups are being met and quantify attitudes towards grocery shopping in the UK today.

## Desk research

The UK population is becoming more fragmented in that the diversity in household size and make-up is increasing while the number and type of food and drink outlets declines.

### Demographic trends

- People are living longer, there being 25% more people aged over 75 than 20 years ago
- Household size is reducing, with single-person households increasing by over a third in the past 25 years

- There is a bigger gap between the wealthiest and worst-off in society
- The rural population has grown at three times the rate of urban areas in England in the past 20 years
- Ethnic minority groups almost doubled in size over the 20 years to 2001.

### Lifestyle trends

- Most of the population use cars to shop, but in 2001 there were still 27% of households who did not have regular use of a car
- Almost half of one-parent households (with dependent children) do not have a car
- Nor do 69% of single-person households where the householder is over state-pension age.

These facts and others helped to identify four groups which are significant in size and have grown in the past twenty years (and are projected to grow further). The hypothesis was that these groups, that in aggregate account for 32.8% of the UK population over 16, may have been adversely affected by current retail trends.

## The four groups

### Older people

Over 70, with an urban/rural split and those with/without access to a car. 11.4% of the population

### People of ethnic origin

6.7% of the UK population

### Single parents with dependent children

With a split of those with/without access to a car. 2.8% of the population

### Wealthier shoppers

The top earning 10% of the population

## Qualitative research

In ten group discussions with the four groups the most important factors influencing behaviour, attitudes and choice were:

**Location** – rural versus urban  
**Access** – car versus no car or lift dependent  
**Time** – working versus not working  
**Budget** – price versus value

Supermarkets and convenience stores form the main shopping repertoire with 'main' and

# shopping needs being adequately met?

'emergency/top up' usage. Specialist retailers were supported to varying degrees depending on the above factors. For example, the wealthy support them because they have time, access and budget, whereas the older group might wish to support them, but would generally not have access or budget.

Each group has a distinct set of needs which determines actual and preferred shopping repertoires. Not all shopper needs are being met by the current grocery shopping environment. Supermarkets are able to satisfy basic needs well, with the advantage of offering 'all under one roof'. Convenience, ease of shopping and price benefits can be achieved, but often at the expense of other areas.

When access is a problem, particularly for the older group and single parents, there is a significant degree of frustration. For those with a more varied, less budget-driven suite of needs, the trade-off encountered when shopping at the supermarket is more complex and results in a stronger sense of dissatisfaction. As the current trend in grocery retailing composition threatens to compromise needs and real choice further, these qualitative findings justified further quantitative research.

## Quantitative research

Interviews were conducted amongst the four identified groups in May 2007. The interviews were designed to understand and measure the needs and attitudes of the groups towards grocery shopping.

## The role for supermarkets

Supermarkets play a very important role in grocery shopping, with almost all shoppers having used a supermarket in the past month. Value for money, range and low prices are the key reasons for using supermarkets.

## Convenience and specialist stores

The vast majority in all groups use c-stores and specialists in addition to supermarkets. C-stores are particularly important to lone parents with

77% of them using a c-store in the past month versus only 40% for the wealthy group.

The key reasons to use c-stores are their proximity to home and the ability to walk to the store. The vast majority of all groups, except for the wealthy, walk to their convenience store. A clear majority in each consumer group think it is good to have a local c-store nearby – 94% in the ethnic group, 92% in the lone parents, 88% in the wealthy group, and 78% in the older group.

Specialist stores have been used by over 60% of respondents in all groups over the past year. The wealthy are significantly more likely than other groups to use delicatessens, farmers' markets, farm shops, fishmongers, markets and wine merchants. The ethnic group is significantly more likely than the other groups to use specialist shops, with particularly high usage of ethnic food supermarkets.

The majority of those who expressed a view in each group wish that there were more specialist food or drink shops nearby. And the majority in each group also believes that a local butcher or baker would stock better quality products than their supermarket's meat or bread counters.

Only about one in six respondents in each group get all of their grocery shopping in one regular large trip.

## Unhappy consumers

The majority of shoppers accept the store choice currently available, but a substantial minority are unhappy with the choice of stores for grocery shopping:

|               | % who feel that in their area they do not have a good choice of: |                   |
|---------------|--|-------------------|
|               | different types of shops   | specialist stores |
| Older people  | 30%  | 45%               |
| Wealthy       | 26%  | 40%               |
| Ethnic origin | 18%  | 27%               |
| Lone parents  | 20%  | 38%               |

'Freshness of products' gets the highest score amongst all groups in choosing where to shop.

Price is an important driver of store choice, but is a secondary reason for many shoppers. Quality, range and access are other key factors.

The majority in all consumer groups agree that continued supermarket growth would lead to the closure of local independent stores. More agree than disagree that this would have a negative impact on friendly/personal service and would damage the local community.

Trade-off analyses showed that other outlets had to significantly outperform supermarkets on factors such as range, freshness, quality and service to overcome the supermarkets' benefit of 'all under one roof'.

## Conclusions

From the research we can conclude the following:

- It is clear that supermarkets alone cannot meet all grocery shopping needs, and that it is in the interests of shoppers now and in the future to have a thriving local convenience and specialist retail sector
- As numbers of c-stores continue to reduce, store proximity (which is the main reason for using c-stores) will reduce further
- Supermarkets satisfy needs such as quality, freshness, access, range and price to an adequate level. However, these needs are not being fully met for some significant and growing groups of the population. The benefit of 'all under one roof' is driving the growth of supermarkets at the expense of other stores
- Shoppers are not homogeneous, with very different attitudes and needs across different consumer groups. As society becomes more heterogeneous and shopper needs become more fragmented, local convenience and specialist retail sectors will become increasingly important.

A copy of the research study *Are consumer needs being met?* is available under 'Submissions' on the British Brands Group website [www.britishbrandsgroup.org.uk](http://www.britishbrandsgroup.org.uk).

# Packaging to deceive

John Noble, *British Brands Group*

In May 2008 the Unfair Commercial Practices Directive takes effect in the UK, aiming to harmonise consumer protection law across Europe and introduce a high level of consumer protection. In imposing a duty on businesses not to trade unfairly, the Directive (and the UK's implementing legislation, the Consumer Protection from Unfair Trading Regulations (CPRs)) contains specific provisions against misleading actions and lists practices that under all circumstances are to be considered unfair.

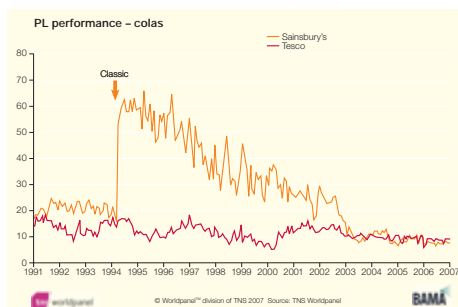
Such provisions hold the potential to address a long-running problem that has plagued the UK consumer goods market for decades, that of misleading (or 'copycat') packaging. Such packaging mimics features of familiar brands to the extent that shoppers are likely to buy the copycat by mistake or, more frequently, to assume that the similar packaging suggests that the two products are connected, for example coming from the same factory when they do not.



Products in such packaging are not counterfeits. They are subtly designed to ensure there is no infringement of intellectual property (IP) rights. At the same time, the law of passing off has proved ineffective in the UK due to the difficulty in demonstrating consumer confusion in court and the substantial evidence required to bring an action. Copycats are also not produced by those generally considered to be 'rogue traders' but by reputable companies, including many of the high street's largest retailers.

While the producers of copycats may argue that such packaging makes it easier for consumers to find similar products and compare products and pricing, the impact is much more insidious. A range of research studies have clearly demonstrated that similar packaging induces shoppers to buy products by mistake

(6% or more) and, most importantly, prompts many more to think that the copycat and the brand are in some way connected (between 32%–52%, depending on the product). Copycats are produced with one purpose in mind, to increase the sales of the products inside.



Because the products in copycat packaging tend to be everyday purchases, the numbers of shoppers misled are substantial. Based on research findings, it can be estimated that over 12 million shoppers have been duped by copycat packaging, either by buying the wrong product or believing the copycat to be connected with the familiar brand when it wasn't. These figures suggest that copycat packaging will be one of the most widespread problems for the CPRs to address.

The shortcomings of registered IP rights and the law of passing off explain why such packaging has gone unchallenged in the past. They also explain why the CPRs are so important in at last offering a solution. Such packaging constitutes a 'misleading action' as defined under the CPRs because it misleads consumers as to the commercial origins and/or characteristics of the product, in either case causing the consumer to take a transactional decision that he or she would not otherwise take (i.e. buying the wrong product). Additionally, and

importantly, copycats are specifically covered in the list of banned 'commercial practices which are in all circumstances considered unfair'. Most practices on this 'banned' list, including the deliberate production of copycat packaging, will from May be a criminal offence.

Brand manufacturers are best placed to determine whether a competitor's packaging is designed sufficiently similarly to mislead their consumers and, in theory, they could bring a criminal action, but in reality such cases are best suited to civil enforcement. Perversely however, the UK Government has chosen not to give affected brand manufacturers any rights of civil enforcement, despite being well aware of the shortcomings of UK legislation in this area, something that was highlighted in the recent Gowers Review.

This is bizarre as the interests of companies and consumers are wholly aligned on misleading packaging and granting companies such rights would yield higher levels of consumer protection at no cost to the taxpayer. Furthermore, the OFT has repeatedly expressed the view that breaches of competition law should be pursued through private means and not be prioritised by the public enforcement body, a principle that in this instance also applies to consumer law. As Philip Collins, Chairman of the Office of Fair Trading (OFT), has said:

'I firmly believe that private enforcement has a vital role to play in contributing to effective enforcement of the law and to encouraging a culture of compliance throughout the UK to the benefit of consumers.'

Why has the Government chosen this course where other countries, including Ireland, have granted companies civil enforcement rights? One stated reason is to not increase pressure on the courts, implying that there is such a large problem here that it threatens to swamp the court system. Another reason is a fear of competitors using this new legislation to disrupt competition, ignoring the fact that consumer harm is required for a case to be brought in the first place. A third reason may lie in the Government's carefully constructed consumer



protection and enforcement regime put in place by the Enterprise Act that does not grant companies civil enforcement rights; it may be unwilling to make an exception in the area of misleading packaging for the precedent this would create.

So, without civil enforcement by affected companies, how does the Government plan to enforce these new regulations? Responsibility will lie predominantly with those organisations specified in Part 8 of the Enterprise Act which, in the case of misleading packaging, means the OFT and Trading Standards (copycats are irrelevant to sector regulators such as OFWAT and not a 'market practice' open to a super complaint).

This does not bode well. Both the OFT and Trading Standards have a host of other priorities and limited resources. They are unlikely to devote additional resources to this problem (it certainly has not been an enforcement priority in the past). The OFT tends to focus on matters which have a significant impact on markets, anticipating that its enforcement actions under the CPRs are likely to comprise education, dialogue and informal warnings, reserving formal enforcement action to those rare cases where 'serious consumer harm' is anticipated. Meanwhile Trading Standards can be expected to focus on practices that affect vulnerable consumers and where breaches of the CPRs are more unequivocal than is likely to be the case with copycats.

Defining just when packaging is sufficiently similar to breach the CPRs will not be straightforward for enforcement bodies. Some traders can be expected to argue that, as long as their packaging distinctly carries a different trade mark (and therefore a different sign of origin), they need not fear breaching the CPRs. This is not the case. Research indicates that similar packaging can still mislead consumers, even when the trade marks are very different. A study undertaken by the Consumers' Association indicated that, for four copycats, between 32%–52% of respondents believed the copycat to be probably or definitely made by the brand manufacturer, despite the trade marks being different.

A further problem for enforcers lies in the fact

that consumers cannot be relied upon to raise the alarm, as they tend not to complain about such packaging (this does not mean that shoppers do not mind being misled – they tell us they mind very much). Consumers tend to blame themselves if they buy such a product by mistake or, because the unit value is relatively low, they will put the mistake down to experience. If they buy a product believing it to be connected with the brand it mimics, they may never realise they have been duped and so never consider complaining.

Despite the Government's recent statements that it is down to the OFT and Trading Standards to fulfil their duty, this enforcement regime is likely to fall well short of the 'adequate and effective' standard stipulated in the Directive. Those brand manufacturing companies whose consumers are being misled and have a legitimate interest in seeing the copycats stopped remain powerless, excluded from taking action under the draft CPRs and inhibited from taking action under IP rights and the law of passing off. This is in stark contrast to the rest of Europe where either the UCP Directive is being implemented to allow both enforcement authorities and companies to take civil action or where companies can take action under effective unfair competition laws.

That the UK is out of step with every other European country in lacking an effective remedy to misleading packaging is clearer now than ever and the UCP Directive's ambitions of providing a high level of consumer protection harmonised across Europe are being thwarted by the UK, certainly in relation to packaging. Where do we go from here? The Government has undertaken to review its implementation of the Directive three years on from implementation, in other words not before May 2011. This is a hit into the very long grass, especially as we can expect to see clear evidence of whether or not action is being taken well within this timescale. If misleading packaging persists in the UK within the next year without enforcement action being taken, the writing on the wall will be sufficiently clear to warrant immediate intervention, in the interests of consumers and of companies who seek to play by the rules.

## 2008 Brands Lecture

This year's Brands Lecture will be given by Richard Reed, co-founder of Innocent Drinks. In his Lecture, 'Can brands save the world? Let's hope so', Richard will demonstrate the relevance of branding to start-up companies and the force it can provide for positive change. The Lecture will be held on Wednesday 4th June. For tickets and more information, visit [www.britishbrandsgroup.org.uk](http://www.britishbrandsgroup.org.uk).

## Oxford symposium

A symposium is to be held in Oxford looking at trends in retail competition, with a particular focus on competition between brands and private label products. Organised by the Institute of European and Comparative Law and the Centre for Competition Law & Policy, the symposium will take place on Tuesday 20th May at St Catherine's College. Further details can be found at [www.iecl.ox.ac.uk](http://www.iecl.ox.ac.uk).

## New regulations on unfair trading

On 26 May, new regulations affecting all UK businesses that trade with consumers come into force. The Consumer Protection from Unfair Trading Regulations will protect honest businesses by targeting the underhand practices of 'rogue traders'. Thirty-one types of unfair practices will be banned outright and a general principle established not to trade unfairly, use aggressive selling techniques or mislead consumers. More information can be found at [www.businesslink.gov.uk/unfairtrading](http://www.businesslink.gov.uk/unfairtrading).

## Museum of brands

The nostalgia associated with our favourite brands, and the part they play in our daily lives, are powerfully portrayed in the Museum of Brands, Packaging and Advertising in Notting Hill. This remarkable collection is open every day except Monday and promises to engage visitors of all ages. The Museum also includes meeting facilities and can cater for groups. More information is available at [www.museumofbrands.com](http://www.museumofbrands.com).

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manager and leave the job of driving revenue and profit to the sales director? No it is not. Brands are about results. Brands are as important today as ever in driving the heart of a business, its sales revenue and its profitability. However the means are changing.

While this is not the end of brand marketing, we must be more radical in what it encompasses. It must address what it means to be a responsible business. Perhaps the biggest social benefit is well-employed people, working for good companies with good prospects, who in turn contribute to the community because they are well employed. Brands have been at the heart of making society better over the past 30 years. If we give up on this, we will all be the poorer for it.

Brand management needs a re-launch and I have five functional improvements to suggest.

### Back to basics

We must go back to basics in brand management and the first thing to fix is lousy execution. Someone somewhere coming up with a marketing plan and then giving it to 'the activation people' will not deliver great execution. There are not many new strategies in life. People make strategy happen, and the difference between good, average and bad companies is how well things get done. Let us get back to a position where thinking and activation are connected, ideally in one head but certainly one department.

There is also a tendency in marketing to over-value difference and under-value better. This is not an original thesis but is expounded in an excellent book called *Simply Better*. Almost all the success stories in business of the past ten years are based on someone understanding what consumers really value and finding how to deliver that in a better way. Tesco did not reconceptualise the shopping experience. They just did every bit of it better.

We must also learn to embrace continuity. Marketing managers become bored with campaigns much quicker than consumers and new brand managers arrive every couple of years eager to put their own stamp on things. You know the old adage – re-design, re-launch, resign. Encourage people to value the long-term and to embrace continuity.

### Apply marketing planning to external affairs

The second theme concerns external affairs and pressure groups. We need to apply some marketing principles to this. Not all public affairs issues are as important as each other. Also, as we realise the need to engage pressure groups and civic society more widely, there is a sense that every issue looks the same. They are not. We need to apply some market segmentation principles and to incorporate our public affairs and social issues into our three- and one-year planning.

### Trust consumers

The third part of the re-launch is to trust consumers. It may sound like a platitude but it is all part of holding our nerve. If we are clear about what consumers really value, what they want from our product, we do not have to worry all the time about our brand's reputation being on a razor's edge. Consumers do not suddenly shift if the fundamental proposition is right.

This reinforces the necessity to really understand what consumers value as opposed to what they say. If you ask a focus group how to improve fish fingers, you will be told to make them twice as big and half the price, and you go out of business. It is all about managing trade-offs. What do consumers value? That is the basis of trust with consumers, who are our biggest bosses. They either vote for us or they don't. It is a very democratic process.

### Private equity represents an opportunity

The fourth part of the re-launch will not affect everyone, but private equity, believe it or not, represents an opportunity. The opportunity lies in what private equity means and the huge well of money that these companies have collected. Everything that is up for sale costs these companies more and more, prices that can rarely be justified on cost savings alone, so the only way for most private equity deals to work is to create value.

Private equity ownership brings a great culture of measurement and a curiosity about what works and what doesn't. Such a culture is not something that we should be scared of, but you do need the self-confidence to persuade people to see things in the round. Private equity may be

a non-issue in the pressures facing marketing, but in a re-launch of the marketing profession, embrace private equity if it comes near you because it is probably a force for good.

### Get a balanced lifestyle

The final point is that managing a brand should be like managing your life. You need a balanced lifestyle. What do I mean? Well, we all know that we are supposed to eat five portions of fruit and vegetables a day and exercise three times a week. If we do that, we will probably live about a year and half longer and live better. We also know it is possible to cheat.

It is like that with brand management. We know what an unhealthy lifestyle in brand management looks like. It is either too focused on the long term or too focused on the short term. The long term can end up being theoretical nonsense while the short term is about sales tomorrow and nothing else. It is important to achieve the right balance.

If we take the essence of this re-launch and professionalise brand management again, learning to accept the world as it is rather than how we might wish it to be, then brand management has a great future. Consumers respond to value, we know that. Reputation needs managing across a wider, more diverse set of stakeholders certainly. But if brand management turns into a specialist niche of PR, then it is all over.

A full copy of *They think it's all over*, which was given as the seventh Brands Lecture, is available in hard copy free from the British Brands Group or can be downloaded from [www.britishbrandsgroup.org.uk](http://www.britishbrandsgroup.org.uk).

## British Brands Group

The British Brands Group represents the interests of brand manufacturers in the UK. Membership comprises companies of all sizes across a wide range of product sectors.

The role of the Group is to build in Britain the optimum climate for brands to deliver choice and value to consumers, through constant innovation and fair competition.

The Group is the UK representative of AIM, the European Brands Association based in Brussels.

BRITISH BRANDS GROUP

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