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방송 간접광고(Product Placement in Broadcasting) 규제 및 제도적 환경에 관한 국가 간 비교문화 연구 : 한국과 미국을 중심으로

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글로벌 광고시장에서 간접광고(Product Placement)의 수요와 인기는 높아지고 있지만, 국가마다 다른 문화적 환경과 규제 여건은 간접광고를 이용하려는 글로벌 마케터에게 큰 고민거리 가운데 하나이다. 특히 이러한 양상은 TV 간접광고에서 보다 두드러지고 있는데, 예를 들어 국가마다 특수한 방송환경과 관련 법규 때문에TV 간접광고를 전면 규제하거나 완전 허용하는 차이를 나타내고 있는 실정이다. 본 연구에서는 방송산업의 이론적, 철학적 토대를 마련하고 있는 국가적 신념체계(national belief systems)와 문화적 가치(cultural values)를 통하여, 한국과 미국 간 TV 간접광고에 대한 법적, 규제적 환경을 비교, 분석하였다. 본 연구에서는 오랜 기간 정치경제적 카운터파트로서 방송 및 광고 산업에서 두터운 협력 관계와 동질성을 추구해 온 한국과 미국이 TV 간접광고에 대해서는 상이한 법적, 규제적 접근법을 취하는 것으로 나타났다. 연구결과를 통하여TV 간접광고의 표준화와 지역화 전략을 고민해야 하는 글로벌 마케터들에게 합리적이고 타당한 의사결정을 내릴 수 있는 이론적, 실무적 함의를 도출하였다. 또한 전 세계적으로 급변하는 방송환경 속에서 사회적 합의와 문화적 수용성을 극대화 할 수 있는 TV 간접광고의 정책적 방향성과 사회경제적 쟁점들에 대해 논의하였다.

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Standardization versus customization in product placement in foreign markets has been debated extensively (Eisend, 2009). Heterogeneous social, economic, and political differences in local markets present major obstacles to international product placement standardization (Gould, Gupta, & Grabner-Kräuter, 2000). Research indicates that understanding and adapting to cultures and regulations across countries is a challenge facing many international advertisers trying to promote their brands globally (Karrh, Frith, & Callison, 2001).

These concerns particularly apply to product placement in broadcasting. Television can be an effective medium for international product placement since television programs are often produced for international audiences and their import and export across borders have increased (Kwak, Andras, & Zinkhan, 2009). According to PQ Media (2010), the variety in broadcast content and technology has contributed to an unprecedented proliferation of product placements worldwide. As the popularity of placement continues to increase with worldwide distribution, the practice has become part of the economic foundation of commercial television in many countries (PQ Media, 2010). Standardized product placements are largely used in broadcasting media since television content and placed brands are difficult to customize and maintain consistent across cultures (Lee, Sung, & de Gregorio, 2011). In the product placement literature, this issue has ignited a lively and heated debate among scholars and practitioners alike.

A growing body of literature shows that cultural values and regulation issues are serious challenges to standardized broadcast placement strategy (Lee, 2008; Schejter, 2007). Research suggests that cultural values are a strong subjective dimension and broadcast laws relating to product placement take many forms depending upon a spectrum of cultural, religious, political, and economic forces (Eisend, 2009). Consequently, insurmountable differences in cultural backgrounds and broadcasting regulations between countries necessitate adaptation of product placement strategies. There are a number of cases in which standardization is not practical, such as when legal and socio-cultural differences in local markets would reduce the effectiveness of standardized placements (Lee et al., 2011).

There is a remarkable lack of attention in the literature to cultural and regulatory contexts of product placement in broadcasting across countries. This issue is especially important today in the age of globalization, when interactions and conflicts between the world's cultural and religious idea systems have intensified, and countries increasingly turn to traditional cultural elements in their attempts to regulate the effects of globalization (Gao & Kim, 2009).

This study examines cultural and regulatory environments of broadcast product placement in two countries that represent contrasting cultural and legal conditions: the U.S. and Korea. Although investigations of cultural values and regulation issues of product placement in the broadcasting landscape have drawn considerable attention from researchers, much of the research has focused on Western countries including the U.S., Europe, Canada, Australia, and Israel (e.g., Cain, 2011; Lee, 2008; Schejter, 2007; Woods, 2008). Korea, as one of the East Asian countries with the most vibrant, expanding product placement market, has experienced very distinct social, economic and political developments and differs on a number of advertising regulations, so it is worthwhile to explore the Korean approach to cultural and regulation issues in product placement. Although prior cross-cultural studies of product placement have examined audiences' responses to product placement depending upon their cultural backgrounds, a limited number of studies have attempted to identify cross-cultural and cross-media differences in product placement regulations relative to cultural values and national regulations in the broadcasting environment.

The diffusion of television ownership and viewing has been on the rise globally with greater availability of both satellite and global channels. However, television is largely a locally adapted medium, principally broadcasting locally produced shows targeted to local audiences (Kwak et al., 2009). More so than other media, broadcasting regulations are established on fundamental cultural and ideological contexts, thereby leading to a different global character in international product placement (Woods, 2008).

Taken together, this study examines the cultural and regulatory contexts for the U.S. and Korea, and thus delves into the foundation upon which broadcast product placement is based and the resulting regulatory regimes. To address this issue, secondary data including the translation of legal regulations, industry publications, country commercial codes, government agency documents, consumer advocacy groups' opinions, and Internet resources are examined. Information presented in this article enables advertisers, regulators, consumer advocates, and researchers to make sense of the differences and their repercussions in terms of standardization versus localization of product placement strategies.

CROSS-CULTURAL CHALLENGES IN PRODUCT PLACEMENT IN BROADCASTING

Culture is the complex set of beliefs, values, norms, and attitudes acquired by people as part of their national heritage, distinguishing one society from another (Hofstede & Bond, 1988). Culture has a meaningful impact on international product placement strategies. Cross-cultural studies of product placement have focused almost entirely on similarities and differences in audience perception and acceptance of the practice. For example, in a study of young American, Austrian and French audiences' attitudes, Gould et al. (2000) found that audiences from all three countries perceived ethically charged products (e.g., tobacco and alcohol) as less appropriate for placement. Another comparative study by Karrh et al. (2001) found that both American and Singaporean audiences tended to consider purchasing brands placed in movies and television shows. However, compared to their American counterparts, Singaporean audiences viewed product placement less favorably and were more cautious of its potential negative consequences (e.g., misleading or deceptive aspects of the practice). Interestingly, by using a generalizability theory approach, Eisend (2009) indicated that the acceptance of controversial products in product placement is generalizable over different cultures (the U.S., France, Austria, China, Australia, Germany and Bulgaria) but not product placement acceptance of neutral products. More recently, Lee et al. (2011) found that young Korean audiences expressed greater ethical concerns about product placement in broadcasting and more strongly support governmental regulation than their American counterparts.

Several approaches are based on the belief that similar cultural traditions lead to similar idea systems and social expectations regarding product placement (Schetjer, 2007). Societies with strong public broadcasting traditions (U.S., Europe, Canada, Australia, and Israel) where clear lines are drawn between commercial and noncommercial speech, tend to be less tolerant of the practice of product placement, considering it a form of undisclosed advertising inserted into broadcast content, even when it applies to commercial broadcasting Schetjer (2007). Woods (2008) reviewed the provisions relating to surreptitious advertising and product placement in Europe. The author suggested that European viewers seem have little choice whether to receive commercial communications, increased legal certainty and new regulations are needed to empower viewers and maintain the traditional broadcasting landscape in Europe. Overall, research findings reveal differences in product placement in broadcasting in terms of audience and policymaker perspectives depend upon distinct cultural values and political systems.

A COMPARISON OF INDIGENOUS ENVIRONMENTS INFLUDENCING PRODUCT PLACEMENT IN THE UNITED STATES AND SOUTH KOREA

Dimensions of Cross-Cultural Differences

The purpose of this study is to examine cross-cultural similarities and differences in broadcast product placement regulations in two dissimilar countries, the United States and Korea. The U.S. and Korea were chosen because these two countries are culturally distinct. Based on numerous studies of the cultural distinctions between Eastern and Western cultures (e.g., Hall, 1984; Hofstede & Bond, 1988; Triandis, 1995), Korean cultural values can be summarized as having the following dimensions: collectivism, indirect or silent communication style, preservation of harmony, obedience of rules and respect for authority, and low trust of strangers. Of these cultural traits, the most distinctive aspect of Korean societies is their collectivistic nature and the influence of Confucianism (Kim & Choi, 2012; Sung & Tinkham, 2005). Confucianism is humanistic, obligation-based, and the individual is valued for his importance to the marketplace and society. In particular, Confucianism in Korea can be found in the way that Korean government responds to advertising and marketing issues and problems (Gao & Kim, 2009; Lee et al., 2011).

In contrast, U.S. culture is characterized by values such as individualism, success, freedom, equality, competition and strong work ethic (e.g., Hofstede & Bond, 1988; Triandis, 1995). Firmly based on classical liberalism, the U.S. places a great deal of value on individuality (Rotzoll, Haefner & Sandage, 1996). As such, the individual's right to seek his own best interest and compete with other individuals is sacrosanct. The principle "atom" of U.S. society is the individual whereas in Korea it is the family or collective (Rotzoll et al, 1996). Research shows beliefs in: mastery over nature; an orientation to time that is both linear and future oriented (where life activity is planned and goal-oriented); and an emphasis on the Protestant work ethic based on a Judeo-Christian heritage (Triandis, 1995). The classical liberal model also advocates competition as the natural regulator of the marketplace. According to pure classical liberalism, the "invisible hand" (competition) is said to make regulation of the marketplace unnecessary. The degree of adherence to this value is controversial and there is a constant debate over the amount of regulation necessary. The classical liberal view also relies on the notion that individuals need incentives before they will act ("quietism"). Marketing and advertising (including product placement) address this need by propelling growth of business and society through giving people the incentive to consume. Taekn together, the U.S. and Korea provide a perfect case study to investigate how and to what extent their cultural backgrounds differently shape the local regulation of product placement in broadcasting.

Popularity and Growth of Product Placement in Television in the U.S. and Korea

Another reason for comparing the U.S. and Korea is that, while the cultures are different, the popularity and the financial success of product placement are similar. In the U.S the introduction of product placement into radio dates from the 1950s (Kielbowicz & Lawson, 2004). It only started making significant inroads in television in the late 1980s. Product placement has become an important tool of branded entertainment marketing in the U.S. Reports from PQ Media (2005 & 2010) confirm that the U.S. is the largest market for paid product placement at about $1.5 billion in 2005, and the figure had continued to grow up to $3.61 billion in 2009. Paid product placement spending in 2009 declined for the first time in tracked history due to reductions in marketers' budgets resulting from the difficult economic environment. However, paid product placement is one of the sectors poised for the most growth and is projected to rebound with a 5.3% increase in 2011-2012 (Kantar Media, 2012). A 2010 report from PQ Media indicated that product placement is projected to reach $6.1 billion by 2014 (Hampp, 2010; PQ Media, 2010). In the U.S., television product placements (the largest outlet for placements) were estimated at more than $1.3 billion in 2011 (Kantar Media, 2012; PQ Media, 2010).

Similarly, product placement in Korean broadcast media is a growing trend. Korea's television environment has evolved into something similar to that of U.S. In particular, the Korean broadcasting industry has undergone major changes in the past two decades. In 2000, it had two national public networks, Korean Broadcasting System (KBS) 1 (a commercial network) and Korean Broadcasting System (KBS) 2 (a commercial-free network) and two privately owned, commercially supported networks, Munwha Broadcasting Corporation (MBC) and Seoul Broadcasting System Broadcasting (SBS). Today, there are 52 terrestrial broadcasting stations in Korea. There is 100% television and radio penetration, and 89% cable television penetration (Park, 2012). Korea offers access to televised media in households equipped with high-speed Internet access and other digital technologies (Park, 2012). The introduction of satellite and cable television further added to the growth in branded entertainment in Korea (Oh, 2011; Park, 2012). Concomitantly, product placements have rapidly become a popular advertising strategy among brand managers and entertainment marketers in Korea (Sung, Choi, & de Gregorio, 2008).

Product placement has its roots in the U.S. and is commonly considered to be an American phenomenon but product placement is spreading rapidly in Korea (Sung et al., 2008). With its high level of economic development, Korea is one of the fastest growing regions of global advertising. Research indicates that the advertising industry in Korea has evolved into one of the most globally and has aligned with world-agency business (Oh, 2011). According to Park (2012), the total size of the advertising market in Korea reached $8.2 billion in 2009 and passed $10 billion by 2011. Of the total advertising expenditure, approximately 30% ($3 billion) of the cost is currently used for television commercials and it is estimated that paid product placement accounts for nearly $500 million in the Korean TV advertising industry (Oh, 2011; Park, 2012). Overall, in terms of size, Korea is now ranked third in Asia and 11th among world markets. Furthermore, the advertising market is open to 100 percent foreign equity participation. For instance, Western (e.g., U.S. and U.K.) advertising companies control more than 50 percent of the Korean advertising market. All the major international agencies are present in Korea (Oh, 2011; Park, 2012). Taken together, Korea presents a particularly promising point of comparison given the large-scale flow of goods, capital and talent as well as cultural differences between the U.S. and Korean advertising markets.

A THEORETICAL FRAMEWORK

By integrating the concepts of the Four Theories of the Press (FTP: Siebert, Peterson, & Schramm, 1956) and the Theory of New Traditional Economy (TNTE: Rosser & Rosser, 1998), the theoretical framework of this study embraces a holistic approach to broadcast product placement regulation. It is focused on two aspects for comparative analysis: (1) social contexts and general regulatory systems, and (2) statutory provisions. Public policy is regarded as a reaction to a real or perceived societal need rooted in the belief patterns and cultural values that underlie an adopted system of regulation (Gao & Kim, 2009; Schetjer, 2009). These two theoretical perspectives provide key insight into product placement regulations in broadcasting at the local, national, and cultural levels in the U.S. and Korea.

Over the years, the FTP has been used to examine historical, philosophical and international perspectives on the role of regulation of the press, media, creative work and advertising in a given society beyond an ideologically biased classification of media systems (McChesney, 2004; Williams, 1966). Specifically, the FTP identifies the underlying belief systems and organizes types of media policy concerning four different societies: Authoritarian, Libertarian, Social Responsibility, and Soviet-Totalitarian (Siebert et al., 1956).

According to the FTP, Korea and the U.S. are classified as authoritarian and libertarian, respectively. Authoritarian systems support and advance the policies of the authority and are focused on maintaining its own power and practices restrictive methods to achieve this. Here media ownership can be either private or public. In contrast, the libertarian system takes the view that man is rational and able to discern between truth and falsehood and, therefore, can choose between better and worse alternatives (McChesney, 2004). The libertarian philosophy was adopted in England and in the U.S. after 1688. Rooted in this theory is the belief that media ownership is chiefly private. Social responsibility theory, an outgrowth of the libertarian theory, came about in the U.S. in the 20^{th} century. In essence, social responsibility goes beyond objective reporting (i.e., reporting the facts truthfully) to interpretive reporting (i.e., reporting the about the facts via analysis, explanation, and interpretation). The media must function as a public forum where all ideas are available to the public (McChesney, 2004). Media ownership is private. Viewed within this framework, the U.S. is characterized by both liberalistic and social responsibility models. It balances individualism against the rights of others and important social concerns (Gao & Kim, 2009). Korea, however, supports authoritarian state structures, paternalistic communalism and family-oriented collectivism.

The Theory of the New Traditional Economy (TNTE, Rosser & Rosser, 1998) holds that Confucian societies such as Korea try to re-embed a modern free market economy within its traditional framework in a complex and pluralistic process of globalization. Korea has experienced rapid economic growth in the last few decades, but Korea employs a managed and negotiated capitalism evident in the government's active intervention in the economy. This contrasts with a policy of minimizing government intervention that is more common in the Western model of modernization and free market economy (Kang, 2004).

According to the TNTE (Rosser & Rosser, 1998), in the time of globalization involving free market economies as well as Western modernization, government regulation must be carefully circumscribed and extremely limited. As a result, policy convergence is required and local regulation is compelled to comply with a liberalistic legal regime that values the impartial, rational self-over group identities and the assertion of universal laws over local customs (Rosser & Rosser, 1998). However, the Western model of modernization is often perceived to have caused social problems such as loss of humanity, degradation of traditional norms and spiritual values, and triumph of individualism over community interest (Song, 2002). Social issues related to industrialization, modernization and globalization foster introspection and a longing to return to traditional ideas for solutions and inspirations (Kang, 2004). In this respect, Korea has relied on Confucian ideology to minimize the contradictions between the global economy and local culture while asserting its political, economic, and cultural autonomy as a non-Western nation. (Song, 2002).

As a consequence, traditional, local ideas and national cultural values in Korea define the role of advertising and result in a greater need for regulating advertising compared to the U.S. According to Song (2002), the modern Western ethic entails a liberal, individualist tradition that emphasizes the private interests of individuals, whereas Confucianism values the harmony and welfare of the entire community above the interests of individuals. Likewise, in the case of advertising regulation, the liberal tradition gives primary consideration to advertisers' rights to freedom of speech and thus is reluctant to regulate certain issues in advertising. The paternalistic and communitarian focus of the Confucian ethic, combined with its strong concern for morality, suggest that Korea, unlike the U.S., may be more intent on regulating product placement in broadcasting. Some tangible differences in product placement regulations in broadcasting may thus be expected in a comparison of the two countries.

A COMPARISON OF THE REGULATORY ENVIRONMENTS

Social Contexts and General Regulatory Systems Influencing Product Placement in Broadcasting

The United States

In the U.S., product placement in broadcasting is within the regulatory jurisdiction of the Federal Communications Commission (FCC) and the Federal Trade Commission (FTC). However, a significant concern is whether promotional messages in entertainment vehicles might be interpreted by the courts to be commercial speech and afforded only limited First Amendment protection (Riccard, 2009). Non-commercial speech enjoys almost complete protection under the First Amendment. Similarly, commercial speech that deals with issues of public interest is fully protected under the U.S. Constitution (Cain, 2011). Commercial speech intended only to promote commercial transactions is entitled to limited First Amendment protection conditioned on its truthfulness. It is also limited insofar as advertisers can not deceive or state falsehoods (Riccard, 2009). Commercial expression in the U.S. is regulated primarily by the FTC, the FCC, the 50 states and the federal courts, all of which have influenced legislation aimed at preventing unfair or deceptive advertising practices (Kielbowicz & Lawson, 2004).

There is a debate about the relationship between commercial speech and product placement (Cain, 2011). Both Snyder (1992) and Lackey (1993) proposed determining whether brand appearances within movie and television constitute what would be legally regarded as commercial speech. Lackey (1993) argued the provider of product placement (filmmaker/television producer) is trying to produce noncommercial speech simply for artistic effects.

Furthermore, Lackey (1993) argued that product placement cannot be insulated from regulation on the grounds that it is somehow intertwined with the film and television program as a whole, and therefore a court must examine the nature of each specific incident of product placement. However, Snyder (1992) argued that single placement incidents within a movie or television program couldn't be singled out for designation as commercial speech because it is impossible to realistically portray situations without reference to commercial products.

A review of U.S. Supreme Court cases has shown that U.S. commercial speech doctrine is unsettled (Cain, 2011). Future decisions regarding First Amendment protection for product placement will be made on a case-by-case basis applying indefinite Supreme Court standards (Lee, 2008). Moreover, it is unclear what precise standards are used to evaluate the legality of product placement in television programs (Lee, 2008). For example, research suggests that the FCC has provided vaguely worded provisos of compliance with the sponsorship identification requirement (Riccard, 2009). Thus, it remains for the U.S. government to clearly determine whether the subtle or overt appearance of branded products in television designed for entertainment purposes constitutes commercial speech (Cain, 2011; Riccard, 2009).

In the U.S., product placements have been largely unregulated except for those that appear on television or radio, which are regulated by the FCC. In the wake of the TV quiz show and payola scandals of 1959-60, the FCC crafted payola rules (Kielbowicz & Lawson, 2004). The FCC payola rules required that employees of broadcasting stations, program producers, program suppliers and others who have accepted or agreed to receive payments, services, or other valuable consideration for airing material must disclose contractual facts thus making audiences aware of sponsors (Goodman, 2006).

Broadcast and cable media in the U.S. also have to comply with sponsorship identification requirements as stated in Section 317 of the Communications Act of 1934 (Kielbowicz & Lawson, 2004). The FCC's concern is whether audiences can differentiate between the program and the sponsorship. The concern is that an advertiser would have an unfair advantage if viewers were unable to perceive the inherent commercial nature of messages. In effect, audiences are entitled to know who is attempting to persuade them so broadcast stations must disclose brand placement (Johnston, 2009). The FCC's sponsorship identification rules governing paid placements in television programs stipulate that when brands are mentioned or appear in television programs for a fee or special consideration, this must be disclosed at the beginning and end of any program. Special waivers are granted to movies that appear on television as reruns (Johnston, 2009).

In the U.S., controversy surrounds advertising of harmful and addictive products – particularly those that are targeted to children and teenagers (Goodman, 2006). This is true for product placement of these products as well. For example, product placement is feared to effect purchasing behaviors of brand-conscious adolescents (Campbell, 2006). In 1971, the FCC initiated a wide-ranging inquiry into children's programming and advertising practices at the request of Action for Children's Television (ACT). This inquiry led to the FCC's 1974 Children's Television Report and Policy Statement that prohibits product placement in television programs originally produced and broadcast primarily for children ages twelve and under (Johnston, 2009). However, the FCC declined consumer watchdog group Commercial Alert's request to eliminate all commercials and the use or mention of any product by name on programs designed for children (Cain, 2011). In 1992, FTC declined to take any action against product placement in television shows or movies (Riccard, 2009). In response to this, Commercial Alert expressed concern that embedded advertisements could trigger cravings for products that parents might oppose such as soda, fast food, and even beer in programs watched by children (Campbell, 2006). However, the FTC staff denied a request by Commercial Alert to investigate product placement practices on television. In February 2005, the FTC's Associate Director for Advertising Practices denied Commercial Alert's request to require greater disclosure of product placement (Johnston, 2009).

Questions about damaging public discourse and the integrity of media institutions have also been raised (Kielbowicz & Lawson, 2004). Commentators and consumer educators have consistently sought legal action to eliminate the use of persuasion that is embedded in entertainment products without disclosure (Campbell, 2006). However, the FTC can bring an enforcement action to protect viewers from subtle forms of advertising influence if a product placement makes false or misleading claims about a product (Johnston, 2009).

Finally, it has long been argued that brands appearing with blatant commercial intent in scripted television programs are part of an increasing commercialization of the public airways (Schejter, 2007). In reality, it is unlikely that all television stations strictly adhere to the FCC sponsorship identification requirements (Goodman, 2006). However, there are some exceptions regarding sponsorship identification rules (Lee, 2008) and sponsors can use these exceptions to bypass FCC sponsorship identification rules (Johnston, 2009). In sum, although advertisers have used product placement for many years and have increased its use in recent years, any efforts to use the law to curb placement are sure to remain controversial in the U.S. (Riccard, 2009).

South Korea

Korean advertising regulation takes a hybrid form: a series of advertising statutes exists, but the Korea Communications Commission (KCC) entrusts their enforcement to a civilian self-regulatory body, the Korean Advertising Review Board (KARB). KARB serves as a clearinghouse for all types of broadcast advertisements and monitors ads published in the print media. It has the power to issue and enforce decisions such as cautions, warnings, corrections, cancelations of ads and requiring apology messages. Based on the KARB, Korea specifies guidelines that go far beyond the general principle that advertising shall respect prevailing social norms and values (Gao & Kim, 2009). In terms of Confucian values, Korea requires advertisements to respect national pride and dignity as well as to help maintain social unity and harmony (Sung & Tinkham, 2005). Korea's Regulations Concerning Deliberation on Broadcasts defines the public responsibility of broadcasting in terms of nation building and harmonious social order (KCC, 2010a). Included in its first five sections is a law on "Level of Morality," which covers topics such as morality, respect for life, maintenance of dignity, wholesome life ethos and social integration (KCC, 2010b). Regulations Concerning Deliberation on Advertising Broadcast and Regulations of Advertising place emphasis on the dignity of the nation and require advertisements to respect national symbols, cultural inheritances and the public's pride (KCC, 2010a).

In this vein, Korea has rules across a range of products in relation to broadcast advertising. For example, advertising for unmentionable products faces varying degrees of regulation in Korea. According to the National Assembly of the Republic of Korea (2007), this product category includes topics such as decency, sexism, sexuality, violence against women and objectification of women. Socially, controversial products can be either mentionable products such as cigarettes and alcohol, whose consumption is deemed undesirable, or socially unmentionable products such as contraceptives and undergarments (KCC, 2010c). Korea further divides the unmentionable into two subcategories: those who are largely condemned by society and those considered acceptable but socially embarrassing. For instance, According to the KCC (2010b), Korea bans advertisements for treatments of venereal diseases. Advertising for personal products such as feminine napkins is allowed in Korean society, though it is closely regulated in Korea. Korea bans advertising for contraceptives. Advertising for gambling, services of a sexual nature (such as escort services, massage parlors, sex phone lines, etc.) and advertising for pornographic materials is prohibited in Korea.

Advertising and promotion targeted to vulnerable groups including children, senior citizens and the underprivileged have been rigorously regulated in Korean broadcasting media. In order to promote the moral character of children and youth, the relevant laws in Korea stipulate that advertisements shall not use expressions harmful to the character, emotion or values of children or juveniles (KCC, 2010b). With respect to provisions on advertising to children, the International Code of Advertising Practice provides two principles concerning advertising to children and young people, i.e. the "inexperience and credulity" principle and the "avoidance of harm" principle (International Chamber of Commerce, 1997). Under the "social value" subparagraph of the latter, the Code stipulates that "advertisements should not undermine the authority, responsibility, judgment or tastes of parents, taking into account the current social values" (International Chamber of Commerce, 1997). Such a provision recognizes that advertising to children encompasses a dimension of moral education. Meanwhile, Korean statutes go beyond advertising content in their protection of children. The country's Youth Protection Law poses expansive restrictions on advertisements deemed to be harmful to juveniles, so that children and youth will not gain access to such materials (Korean Juvenile Protection Committee, 2002). For instance, the time period between 13:00 and 22:00 and in the case of holidays and school breaks, 10:00-22:00, are designated as “Juvenile Viewing Time Zones”, during which materials harmful to children should not be broadcast (KCC, 2010b; Korea Juvenile Protection Committee, 2002).

To sum up, Korean regulators have brought a series of actions against advertisers and sponsors engaged in product placement in broadcasting media (KCC, 2010c). The KCC governing all laws and rules related to every type of broadcast advertising has rejected the request for full and open acceptance of product placement. It maintains provisions banning and regulating product placement (KCC, 2010a; The National Assembly of the Republic of Korea, 2007). Recently, Korean lawmakers and viewers’ groups have convincingly demonstrated the need for more vigorous laws and enforcement of product placement in broadcasting content (Park, Park, & Han, 2009). Recently, according to Choi, Yang and Suh (2009), this might be due to the widespread belief in Korea that product placements can: interfere in the content and form of programming; disturb the flow of a television program; undermine television viewership and audience-autonomy; and harm public discourse and trust in televised-mediated communication. Recent studies of television shows have indicated the frequent use of product placements to market ethically-charged products to vulnerable audiences (e.g., children, adolescents) who lack commercial media literacy and don’t have the capacity to judge the quality of the products or the intent of commercial messages (Choi et al., 2009).

Product placement seems to be considered “a form of hidden and surreptitious hybrids;” “masked communications;” “communication in camouflage;” “cash for comment;” and “information disguised as news reports” in Korea (Yang, 2007; Yoon, 2008). Moreover, there is concern that excessive commercialism resulting from product placement in national broadcast media will be counterproductive to fairness and the public interest of the Korean broadcasting industry as well as the overall quality of television programs (Yang, 2007; Yoon, 2008). In particular, since product placement works differently than normal broadcast advertising where commercial time is purchased in Korea, the KBC decided to accept the conventional manner of advertising and to prevent product placements from distorting the entire Korean broadcasting advertising market (Choi et al., 2009). Taken together, product placement regulations in Korean broadcasting presents a serious challenge due to a strong subjective dimension that is influenced by a spectrum of cultural, religious, political and economic forces.

Despite the above limitations, Korean advertising organizations deeply value U.S. marketing concepts and aggressively adopt and implement them. These approaches have resulted in high sales and profits in the Korean marketplace and, in turn, Korean advertisers are increasingly adopting U.S. product placements (Lee et al., 2011). Particularly, since the imposition of International Monetary Fund (IMF) conditions in Korea, many Korean corporations have cut down on their marketing expenditures as a means to cut costs and have become very critical of the cost of traditional advertising and marketing activities, thus resulting in a tough business environment for advertising agencies and media industries in Korea. Korean advertisers have attempted to establish more sophisticated integrated marketing communication programs and now frequently use product placement as the centerpiece for multimillion dollar integrated brand promotional campaigns (Lee et al., 2011). Recently, U.S. films and television shows employing product placement have attracted Korean consumers' attention leading to the strategic importance of product placement for Korean practitioners working with global and local clients in subsidiaries of U.S. advertising companies (Park et al., 2009).

Statutory Provisions on Product Placement in Broadcasting

The United States

Both the FCC and the FTC examine product placement in broadcasting through unique perspectives and with different aims and goals. This area is also subject to the self-regulatory guidelines of entities in the U.S., such as the National Advertising Review Council (NARC), the Children's Advertising Review Unit (CARU), both units of the Better Business Bureau (BBB), as well as the U.S. broadcast networks (Cain, 2011).

The FCC asserts its jurisdiction over product placement through two sources of law. The first source is Section 317 of the Communications Act of 1934, which requires broadcasters to disclose to their audiences any content of the broadcast that was included in exchange for money, services or other consideration. Under this law, the disclosure must be made at the time the subject matter is broadcast (Riccard, 2009). Additionally, the FCC adopted what is known as the sponsorship identification rule, which established the responsibility of the broadcaster to make the sponsorship identification. The second source of U.S. law governing product placement is Section 507 of the Communications Act 1934 which requires that a disclosure be made in advance of a person providing or promising money, services or other consideration to someone to include program material in a broadcast. Both the entity providing the money, services or other consideration as well as the recipient are required to make this disclosure in order to comply with Section 317 of the Communications Act 1934 (Cain, 2011).

The FTC, while not as active in this area as the FCC, has traditionally viewed product placement within the overall jurisdiction of its consumer protection regulatory authority in relation to deceptive advertising and unfair business practices (Kielbowicz & Lawson, 2004). More recently, in September 2003, Commercial Alert filed a complaint with the FTC urging it to investigate product placement practices on television. Concerned that the line between programming and commercials had become increasingly blurred, thereby making it difficult for consumers to know when they are being advertised to, Commercial Alert called for added disclosures in product placement advertising. Commercial Alert simultaneously filed a similar complaint with the FCC. In its complaint to the FCC, Commercial Alert contended that the television networks failed to comply with the FCC's sponsorship identification requirements with respect to paid product placements (Goodman, 2006).

Commercial Alert's complaints were met with resistance by several advertising trade associations. In November of the same year, the Freedom to Advertise Coalition (FAC) filed two opposing arguments to Commercial Alert's complaints (Johnston, 2009). The FAC argued that product placement is advertising that is protected by the commercial speech doctrine (Campbell, 2006). The FAC also argued that Commercial Alert did not identify a compelling governmental interest to warrant action or show 'that product placement is unlawful or misleading (Schetjer, 2009). The FAC further argued that pop-up disclosures identifying product placements, which were suggested as an appropriate means of disclosure in Commercial Alert's complaints, would destroy the artistic integrity of the program and prove annoying to viewers (Cain, 2011). The FAC's opposition to Commercial Alert's complaints was joined by The Washington Legal Foundation (WLF) in March 2004 when it also filed comments with the FTC in response to Commercial Alert's petition. The WLA asserted, among other things, that Commercial Alert failed to demonstrate the harm necessary for a finding of unfairness under Section 5 of the FTC Act (Johnston, 2009).

The FCC joined the debate in May 2004 when FCC Commissioner Jonathan Adelstein, in a speech before the Media Institute, stated that it is a cardinal right for Americans to have the commercial elements of radio and TV broadcasting clearly marked and made explicit to even undiscerning viewers and listeners (Kielbowicz & Lawson, 2004). The FTC's official response to the Commercial Alert complaint came in February 2005, when the Commission concluded that paid product placement alone does not violate Section 5 of the FTC Act. The FTC rejected Commercial Alert's request to require pop-up advertising disclosures to appear during television programming each time a paid product placement appears. The FTC did agree to monitor future uses of product placement and reserved its right to step in, should false or misleading claims about a product's attributes be made (Lee, 2008). Three months later, Commissioner Adelstein stated publicly that the FCC should toughen its product placement disclosure requirements and expand its investigation into the practice of product placement. There is no indication, however, that this call to action led to lasting effect.

The self-regulatory group, The National Advertising Review Council (NARC), announced in September 2005 that it would be expanding its panel of academic experts to help set standards for reviewing advertisements, and that it had asked the Children's Advertising Review Unit (CARU) to take a closer look into product placements (Campbell, 2006). NARC president-CEO, James R. Guthrie, stated that these efforts were a response to concerns raised at a joint FTC and Department of Health and Human Services workshop that looked into the role of marketing and advertising in the childhood obesity crisis (Johnston, 2009). Among the proposals discussed at the workshop was a complete ban on paid product placement in children's programs.

Additional criticism of product placement practices came in November 2005, when The Writers Guild of America (WGA) issued a white paper entitled, "Are you selling to me? Stealth advertising in the entertainment industry" (Cain, 2011). The paper criticized the expanding practice of product placement and pushed for the disclosure of product placement deals in the beginning of each program. The WGA called for a portion of product placement revenues, in addition to a code of conduct for the advertising. Thus far, the WGA's actions have been viewed by many as self-serving, in that many of their stated concerns involve protecting consumers from harm, many of their resolutions involve paying writers more for product placements and/or giving greater control to writers over how and whether product placements will be executed (Cain, 2011).

In November 2006, CARU revised its Self-Regulatory Guidelines for Children's Advertising. In connection with the Guides, the Council of BBB established the Children's Food and Beverage Initiative with ten of the largest food and beverage companies as participants (Campbell, 2006). The participants agreed to, among other things, refrain from engaging in food and beverage product placement in program content (Campbell, 2006).

In September 2007 These concerns led to the FCC's and the FTC's reconsideration of policing product placement on broadcast and cable television, the adequacy of existing regulations and the proposal for additional disclosures for product placement in broadcast media. However, these have not been discussed in recent years (Lee, 2008). Instead, the three main advertising trade associations, the American Association of Advertising Agencies (AAAA), the American Advertising Federation (AAF), and the Association of National Advertisers (ANA) have urged federal agencies to reconsider issuing the notice of proposed rule-making on product placement (Johnston, 2009). These trade associations asked the FCC instead for a notice of inquiry as a means of gathering information about the issue before addressing any policy considerations (Campbell, 2006). Thus, in this area, since 2008, the FCC has adopted and released a notice of inquiry and proposed rulemaking regarding the practice referred to as embedded advertising (Lee, 2008). According to Schetjer (2009), the FCC sought comment on proposals to require specific sizes and/or specific durations of disclosures of embedded advertising in broadcasting media. In addition, the FCC sought comment on the extension of the disclosure requirements to cable programmers and whether additional requirements and/or restrictions should be placed on children's programming (Cain, 2011).

South Korea

When it comes to legal restrictions on product placement in broadcasting media, Korean regulatory guidelines go far beyond the general principle that television advertising respect prevailing social norms and values. Korea requires advertising and promotion activities in broadcasting to respect national pride and dignity as well as help maintain social unity and harmony (KCC, 2010a). In this vein, Korea's regulatory framework and legal restrictions seem elaborate compared to those of the U.S. The law also gives emphasis to the dignity of the nation and requires advertisements to respect national symbols, cultural inheritance and the public (KCC, 2010a). Specifically, KCC (2010a) lists the shared values of the society, including nation before community and society before self; family as the basic unit of society; community support and respect for the individual; consensus, not conflict; and racial and religious harmony. It also enumerates Korean family values, including love, care and concern, mutual respect, filial responsibility, commitment and communication. It further explains what these values mean for advertising content: advertisements should not encourage inconsiderate and disrespectful conduct among family members or discourage the responsibilities of honoring, supporting and providing for one's parents and grandparents in their old age (KCC, 2010a).

The Korean Broadcasting Act bans product placement in broadcasting media. According to Broadcasting Act Article 73 (1), a broadcasting business operator shall clearly separate the commercial broadcasts from programs in order to avoid any confusion. Broadcasting Act Article 74 clearly states that broadcasting business operators are allowed to make an announcement of sponsors within a limited range of programming. Broadcasting Act Article 73 (2)-7 defines indirect advertising as commercials that are aired in the broadcasting program as a form of exposing products by using them as props. According to the Enforcement Decree of the Broadcasting Act Article 59.3, the permissible scope, time, frequency, and methods of indirect advertising are based on the guidelines of Broadcasting Act Article 73 (2)-7, which require advertisers comply with specific guidelines regarding product placement in broadcasting media (KCC, 2010a, b, c). Essentially, these state: (1) Indirect advertising (i.e.,, product placement) is allowed only during entertainment/liberal arts programs. It is not allowed during children's programming or during news and commentaries that require objectivity; (2) Indirect advertising must not influence the content or structure of the broadcast nor should it restrict the independence of the broadcaster; (3) Programs including indirect advertising may not mention the product nor recommend purchase or use of the product; (4) Indirect advertising is not allowed for products that can't appear in broadcast or are limited in terms of time; (5) Brand/logo exposure can't exceed 5/100 of the program unless the longer exposure is inevitable; (6) Brand/logo exposure can't exceed ¼ of the screen; and (7) Broadcasters must announce an insertion of indirect advertising with a caption before the program begins.

Similarly, the guidelines issued by the Enforcement Decree of the Broadcasting Act specify that although any broadcaster must comply with Broadcasting Act Article 74, advertisers are allowed to consider using indirect advertising (i.e., product placement) in televised media such as television and radio under the following conditions: (1) Sponsoring a campaign of public interest conducted by a broadcasting business operator; (2) Sponsoring an event for public interests, such as culture, art, or sports that are hosted, supervised or supported by a broadcasting business operator; (3) Sponsoring a production of broadcast programs by a person who produces broadcast programs (excluding a broadcasting business operator) and who is not in a special relationship with a broadcasting business operator; (4) Sponsoring a production of a large scale planned program seeking a public interest to persons who produces broadcast programs; and (5) Providing prizes or gifts in the production process of broadcast programs, or sponsoring a location, costume, vignette, information, etc.

Under the Enforcement Decree of the Broadcasting Act, the name or identity of public agencies established under the provisions of Acts (such as the Korean Racing Association under the Korean Racing Association Act) or public service organizations can appear in programs if this contributes to public good. However, political parties and other political organizations are not allowed to use indirect advertising in televised media. Consistent with Article 73, sponsors who are not permitted to advertise in broadcasting media cannot use indirect advertising. Nor can indirect advertising be used in the programs of news reports, commentaries, or discussion/debate programs on current events.

Finally, KCC (2010a) articulates legal restrictions on broadcast product placement in terms of advertising effects. Broadcast programs shall not be made to provide advertising effects for sponsors who supply budgets, goods, labor or locations etc., required for program production. Broadcast programs may not promote advertising effects by providing detailed information regarding a particular product, service, or company or deliberately exposing them. Broadcast programs may not promote the name or identity of products or their relevant brands, logos, slogans, and designs.

In sum, although Korea typically is a fast-developing economy with increasing capitalist development, product placement regulations in Korea manifest characteristics of managed capitalism. The government or quasi-government agencies in Korea play an active, central role in regulating product placement. Their regulatory framework and legal provisions often reveal strong moral conservatism and paternalism. However, the media landscape has changed dramatically with increased privatization and commercialization of the televised media. With an increased number of channels over a range of platforms, changes in attitudes towards product placement and the level and nature of regulation of the practice have changed. Particularly, a number of policymakers, scholars and industry professionals have increasingly turned toward a relaxed, flexible approach in regulating product placement in broadcasting. This is in spite of audience advocacy groups' opposition to the practice because it hinders viewers' rights and the public interest mission of broadcasting (Choi et al., 2009; Park et al., 2009).

For example, as suggested by Choi et al. (2009) and Yang (2007), as people from other countries are increasingly portrayed in Korean media, product placement is expected to lead to the growth of the entertainment industry. Product placement may thus need to be less regulated. Policymakers and scholars are attempting to develop more detailed, clear quantitative and qualitative product placement guidelines that fit with the Korean economy rather than removing extant regulations (Choi et al., 2009). Additionally, audience advocacy groups require that new types of placement driven by the emergence of new media such as IPTV should be constantly monitored and/or banned to protect viewer sovereignty. Finally, academic research and governmental reports have suggested a regulatory organization such as Korea Broadcast Advertising Corporation (KOBACO) become involved in the business of product placement as an alternative to marketers and production agencies directly arranging product placement deals (Park et al., 2009; Yang, 2007). For instance, Choi et al. (2009) suggest that the sales of product placement, now arranged through product placement agencies, need to be regulated through a standardized and systematic process of KOBACO that could prevent unlawful transactions and improve fair trade. Furthermore, regulators, researchers, practitioners and viewers' groups articulate the need for creating product placement contract guidelines covering sales processes, placement rates, fee payment, and related regulations.

DISCUSSION AND IMPLICATIONS

This study shows how the combination of societal and cultural forces uniquely conditions a country's ethical judgments and regulatory policies concerning product placement in broadcasting. Specifically, the U.S. has opted for a liberalistic approach while Korea adopted laws and codes based on its collectivist, Confucian culture. Unlike the U.S., Korea is more likely to rely on formal regulation rather than the market, community, and self-regulatory bodies. For instance, ethically charged and socially sensitive products such as tobacco, alcohol, fatty foods, condoms, female hygiene products and sexual products placed in broadcasting are far more explicitly addressed by Korean regulators than the U.S. due to the moral conservatism of Korean traditional culture. Moreover, product placement practices targeted to vulnerable audience groups in Korea such as children and adolescents risk a backlash due to the emphasis on the Confucian values of morality and moral education.

Two plausible reasons account for why the Korean approach differs from the U.S. First, compared to the U.S., Korea does not have long history of capitalist development. Although the U.S. helped usher in the Korean economic modernization during the 2000s, free market ideology takes time to be assimilated into the Korean culture, where direct formal regulations are favored. Second, given the society's strong emphasis on paternalism and communalism as Confucian values (Sung & Tinkham, 2005), these values have become manifest in explicit laws governing product placement in broadcasting. These formal approaches confirm the tradition of managed capitalism and close co-operation between the state and business in Korean societies. Product placement regulations in broadcasting closely reflect the operative cultural environment and are determined by a spectrum of social and historical forces in a given country. Thus, global product placement strategy must be aligned with the indigenous forces within a host country. To this end, advertisers must sensitize themselves to the local culture in order to reduce risks and complications in global product placement efforts.

Policy Implications

Understanding the roots of different regulatory systems facilitates reaching ethical solutions in business activities. Because product placement regulations spring from different definitions of the role of advertising and broadcasting in society, identifying those paradigmatic differences can help create appropriate solutions that promote universal criteria of truthfulness in communication. As demonstrated, both the U.S. and Korean approaches share a certain apprehension toward product placement that has spawned different regulatory responses. However, Korea with a strong tradition of public broadcasting is typically more suspicious of advertising, and thus is more inclined to crack down on this practice. Philosophically, this reflects a different approach to that taken by the U.S., which requires sponsor identification. The commercial U.S. system accepts advertising as an integral part of broadcasting. This explains the reluctance of policy makers to regulate advertising, even when it appears undisclosed in entertainment products, and why the debate in the U.S. focuses on whether programs consequently become commercial speech and thus more highly regulated. It also explains why regulators in the U.S. have not responded to the proliferation of product placement. However, as discussed by Schetjer (2009), undisclosed sponsorship and advertising are problematic because the true motivation behind the broadcast is not clear to the viewer. Consequently, the communication dynamic between broadcasters and viewers does not conform to the rules of full disclosure that an ethical communication process should follow. Hence, a new system of disclosure is necessary, one that distinguishes between different types of broadcasters and content providers, different genres of programs, and audiences with different perceptions of broadcasting content across countries. However, regulators must take the industry's welfare into account when evaluating product placement and other new forms of advertisement (Schetjer, 2009).

Managerial Implications

Advertisers must take a close and timely view of the policy environment and specific legislation governing product placements across media and in both current and potential markets. Global product placement transactions and investments have always entailed greater risks and more complexities (Eisend, 2009). In the case of unfamiliar markets, understanding the policy environment is a time-consuming task. The lack of information not only affects product placement performance but can also create legal risks. Consequently, this study recommends actions for ameliorating the differences in the product placement planning process, with emphasis on research and analysis of the regulatory environment. In order to effectively incorporate policy perspectives in product placement planning, experts' advice will be helpful for understanding new markets. Alternatively, sources such as academic journals, country reports, trade shows, government repositories, company histories, and primary research studies may be helpful. As such, regulations under review should be monitored on a continuous basis. Information about industry associations and boards and committees should be reviewed frequently because these groups greatly influence what is deemed acceptable in different countries. Because of differences in language and ideology, an indigenous understanding of a market is essential.

Future Research Directions

The product placement literature is in need of more studies on emerging markets. For example, given that the BRICs (i.e., Brazil, Russia, India, and China) and other emerging markets (e.g., Latin America, Eastern and Central Europe, Asia, the Middle East and Africa) rapidly increased their relative importance in the world's economy and are being included in multinational marketers' plans, more research is needed about these markets. A deeper understanding of regulation from a culture's social and economic perspective will help marketers deal with challenges associated with product placement in new media. Doing so will facilitate the development of "legal best practices" in a variety of cultures and the difficulties inherent in using standardized or specialized approaches may become more manageable.

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08

A Comparative Study of Product Placement Regulations in Broadcasting in South Korea and the United States

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Navigating the regulation of product placement in television presents a serious challenge to international advertisers in that the regulations of product placement in broadcast across countries range from a total prohibition to virtually no regulation. Previous research suggests that international advertisers should take into account fundamental national belief systems, cultural values, and regulatory and legal concerns that underlie treatment of product placement in broadcasting. This study explores similarities and differences in the regulation of television product placement in the U.S. and Korea. The two countries offer an interesting contrast. While both share a commitment to capitalism and the growth of international trade, their underlying cultural and philosophical foundations on product placement in broadcasting media are dramatically different. Regulatory frameworks in both countries are assessed based on an examination of their respective cultures. Recommendations for international advertisers and ideas for future research are offered.

Keywords : Product placement, broadcasting, regulations, cross-cultural comparison, and international advertising