

CREATIVITY AND INTELLECTUAL PROPERTY IN ADVERTISING INDUSTRY

- A CASE STUDY FROM TURKEY -

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New growth theories of 1990s try to identify the basic motivation of economic growth by introducing the protection and subsidization of innovation, thus creation. Technology, which is introduced (but not explained) as the source of economic growth by neo classic growth theorist, is tried to be illustrated by endogenous growth models. Romer (1990), Lucas (1988) argued the importance of knowledge (both stock and spillover) and the innovative activities through technology development process. To capture the source of the innovative activities, special emphasis is given to creative ideas and human capital. Moreover intellectual property rights are introduced as the sole stimulus for innovation. The underlined significance of protection of inventor is associated with the public good property of knowledge and creative ideas. Non-rival and non-excludable good property discusses that, under perfect competition and absence of protection of intellectual property rights, there will not be enough motivation for inventors to create. Actually it is the patent and other kinds of intellectual property rights (copyrights, trademarks etc.) that cause the transformation of the non-excludable and non rival good of invention, thus knowledge, into a non rival but partially excludable one.¹

Although the core discussion regarding endogenous growth models relies heavily on protection of research and development hence knowledge, a similar understanding can also be developed for other industries that may be labeled as creative. As in the case of research and development, which produce non rival (public) goods, we have to treat the output of creative industries - creative ideas, slogans - as public goods that can be observed and imitated freely. Once a slogan or a creative idea is declared, it can be used by other parties without incurring significant costs. Therefore, as in the case of research and development based industries,

¹ Although endogenous growth theorists concentrate on patents as the basic tool, recent studies start to identify other intellectual property rights such as; trademarks, copyrights. See Centi, Rubio (2005) for a brief discussion.

creative industries also have to be protected as to form an incentive mechanism for innovation and creativity.

One of the main sectors that creativity and intellectual property rights gain importance for innovation and growth is advertising industry. Advertising sector covers the advertisers, the advertising agencies, the media agencies, the advertising mediums and the producers that take part in the production of advertisements. Today, in Turkey, there are approximately 100 advertising agencies in the organized manner with customer relations, creative and media departments. The number of total employees in the advertising agencies is projected approximately 3000. Real size of the sector is estimated to be around 2,534 million USD and 3,675 million New Turkish Liras for 2006. In recent years, audit has been started to be implemented by state institutions. Two main public audit institutions are: Advertising Board of the Ministry of Industry and Trade, Radio and Television Supreme Committee. As a non-public institution, The Advertising Self-Regulatory Board (RÖK) was established in 1994 by the advertising agencies as a mission of maintaining ethics in the advertising works in the line with International Code of Advertising Practice.²

In the content of national legislation, copyrights of the products in the advertising agencies are protected within the framework of Intellectual and Artistic Works Law. There exist legal associations, laws and non-public institutions to protect the producer and user of the creative works in the advertising agencies, however, the main problem is how effective these institutions and laws are utilized in the advertising sector. Creative products are the corner stones of the agencies and valuable for competing with the other agencies to gain a share in the market and also participating to fundamental contests to strengthen the reputation of the agency. Besides, creative work needs an ability to create something valuable and different. Therefore public and non public instruments are vital to protect this creative effort. Creative content in the agencies covers visual and written materials such as slogans, sounds, photographs, art, music, videos and graphics.

The aim of this paper is to explore the basic problems that advertising agencies face, or at least may face, in the protection of creative works within the framework of intellectual property. Through out the study, we aim to discuss the institutional and legislative environment for advertising industry in Turkey. First of all, we will deeply analyze the rules,

² Turkish Association of Advertising Agencies, <http://www.rd.org.tr/>

norms and standards that stimulate and protect creativity and knowledge-intensive works. Further, how these implementations affect the dynamics of industry and advertising agencies will be carefully analyzed through data analysis and interviews. The paper will also underline the significance and the need of intellectual property rights in advertising industry and will end with possible future recommendations.

In the methodology part, both quantitative and qualitative techniques will take place to gain a deeper insight of the situation in the advertising sector. In the secondary data analysis, as a quantitative method, previous data of the advertising sector, legal cases concerning protecting intellectual property rights and points of claim will be examined. In addition, semi-structured interviews will be designed to gather data from advertising agencies, legal and non legal institutions as to understand the problems of the sector. As many small businesses may have a potential to be considered in the scope of advertising sector; to construct a sample for our study, only medium and big sized advertising agencies that are registered to Turkish Association of Advertising Agencies will be selected for the study.

Overall, the main contribution of the study will be the demonstration of the general environment in Turkey regarding the advertising industry and intellectual property rights. As an EU candidate country, legal and ethical implementations in Turkey are crucial for the adaptation process as a forward step to stimulate creativity, sustain innovation and protect intellectual property.

References

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