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Marketing agencies urged to keep intellectual property rights

By Carlos Grande

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Marketing agencies have been urged to retain their intellectual property rights as the industry struggles to make viable profits from the £19bn a year spent on advertising.

Agencies must convince clients that they should have a share of the rights to ideas and brands they created rather than simply handing them wholesale to clients, said Marilyn Baxter, author of a new report on the marketing industry, yesterday.

Ms Baxter said the current situation was "inequitable" since agencies had little power to retain IP rights for campaigns because in any dispute clients could always find a new supplier. "In that sense, the market doesn't function very well," she said.

IP is highly contentious since many clients believe they should retain all rights associated with campaigns they have paid for. Some even think they should retain the ideas that agencies float in pitches.

An industry expert cited the example of BT Cellnet, which rebranded as O2 and later sold to Telefónica of Spain for £18bn. The ailing company's turnaround was helped by rebranding and advertising, yet the agencies involved enjoyed only a limited share in the revival.

The weak negotiating hand of agencies contrasts with that of TV production companies, which have been helped to exploit their IP rights thanks mainly to favourable regulatory intervention. While financial prospects for TV producers have duly strengthened, even leading agencies struggle to achieve good profits.

The report cites a study by Willott Kingston Smith, the accountancy firm, claiming more than half of the top 50 marketing agencies by size are "making less than adequate profits".

One of the more pro-active agencies in IP, BBH - which devised the hit Lynx deodorant campaign - has a joint venture subsidiary, Leap Music. It commissioned and published the track "I see girls" for a Lynx commercial which has sold 220,000 copies in CD, from which Leap Music has earned revenue.



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