If the liberal state is to protect autonomy and if branding undermines autonomy, then it follows that the liberal state should protect the autonomy of its citizens against branding. In my thesis I claim that the first premise of this argument is to be accepted and that the second is conditionally true. On this basis I conclude that there is presently an obligation for the liberal state to protect the autonomy of its citizens from several types of branding. Such protection can be realized either by consent procedures or by a ban on autonomy violating branding. I remain uncommitted as to which of these two forms of protection is most appropriate.

In support of the first premise I rely on a recent argument by Ben Colburn for thinking that all anti-perfectionists must be in favor of autonomy promotion and protection (provided they are not against any state action) and that all perfectionist defenses of liberalism are seriously unattractive. I claim that this argument is incomplete though in that Colburn does not give guarantees for the lack of a spillover of first-order values (which make sense in relation to states in the world) into the second-order value autonomy (which makes sense in relation to a value generation process). As such a guarantee, I argue, would count a conception of minimal autonomy that is inclusive of most theories and intuitions about autonomy, since such a concept can reasonably be assumed to be sufficiently free of perfectionist bias. In the course of my argument for the conditional truth of the second premise I develop such a concept of autonomy.

The merits of this second premise – that branding undermines autonomy – have been discussed extensively in the business ethics literature. However, those engaged in this debate have so far cherry picked concepts of autonomy, discussed only individual advertisements and failed to compare autonomy violation in branding with autonomy violation in similar institutions. In response to these three deficiencies I have mapped out an alternative strategy. First of all, the most relevant type of autonomy, at least from a political perspective, is the one that is minimally required to secure liberal legitimacy. Hence, a normative analysis of branding requires that one first construct an independent argument for such a minimal conception, which can then be applied to branding. Second, although it would be useful in itself to have a framework for evaluating individual branded communications, the state cannot realistically regulate such communications on a case by case basis. A comprehensive strategy must therefore identify structural features of branding and relate these to minimal liberal autonomy. Third, these structural features allow one to systematically compare autonomy violation in branding with autonomy violation due to similar institutions such as religious organizations and political parties.

As the first step of this strategy I identify, on the basis of a review of the relevant literature, seven core intuitions around which philosophical theories of autonomy have been built. Because most of these intuitions are highly controversial, I am careful to avoid making theo-
retical commitments where I don’t have to and eager to use empirical research in order to limit the range of reasonable controversy. In doing so, I aggregate five intuitions into the conception of self-control, understood as the ability of the agent to appropriately regulate her actions and the absence of control by other agents. I then argue against a number of philosophers who believe that this is all there is to autonomy, on the basis of strong intuitions in favor of including the notion of access to relevant self-related mental states (at both the encoding and the retrieval stage), which I refer to as authenticity. For both self-control and authenticity I detail minimal empirical conditions with regard to action and mental state formation. On the basis of the resulting four types of thresholds of autonomy I am able to identify several types of autonomy violating processes, which include unconscious goal activation, negative affect induction, subliminal attitude change and covariation learning (such as evaluative conditioning). However, these processes violate liberal autonomy only if they are widespread (because state intervention in general must be proportional) and if they are retrievable without violating basic privacy rights and have not been consented to (because state intervention that aims to protect one aspect of autonomy should not bring about more serious violations of another aspect of autonomy).

Instead of applying these standards to a sample of branded communications directly, I identify structural conditions of branding and investigate whether they alone or in conjunction generate pressure for brand managers to develop communications that violate minimal autonomy. Conditions are structural if they are historically stable elements of the environment in which branding occurs. A structural economic condition is the pressure to generate profits, which can explain by itself the use of unconscious goal and trait priming in shopping contexts. More important for my argument though are structural psychological conditions, such as stable higher-order human motivations. There are theoretical reasons and there is some empirical evidence for thinking that such stable higher-order motivations exist. Moreover, work in consumer psychology shows that consumers consistently respond to cues in branding in a way coherent with what one would expect to observe if there were stable higher-order motivations. These generate pressure for autonomy violation insofar as appeals to three of these higher-order motivations (i.e. mating, affiliation and status) induce conflict in the consumer and so give brand managers a structural incentive to use especially evaluative conditioning.

With minimal empirical standards for evaluating autonomy and relevant structural conditions of branding in place, I turn to work in consumer research in order to see whether the expected autonomy violation processes actually occur, both at the psychological and the socio-historical level. Experiments in consumer psychology concerning purchasing behavior and attitude change provide ample evidence for mental state and behavior change that is induced by means of evaluative conditioning and unconscious goal and trait priming. However, the evidence from the real world of branding – in particular, the historical record of advertising – is more difficult to interpret. I therefore generate hypotheses that at least make the claim that evaluative conditioning occurs on a large scale in the real world of branding falsifiable. Research in consumer psychology and history also inform the assessment of the three conditions for liberal autonomy violation. Whereas conditions for the centrality of effects and the retrievability of intentions are met, I remain undecided as to whether consent by consumers to autonomy violating branding can absolve the state from its obligation to protect the autonomous life slices of its citizens.

In the final stage of the argument a case is made for thinking that branding may be unique in violating autonomy for no good reason. I argue that the two main institutions that pose a threat to this status are political parties and religious organizations. Although political
parties deploy techniques similar to those used in commercial branding, such communications are legitimate in virtue of their support for political legitimacy which is generated by political communication. Branding offers no such indispensable contribution to liberal legitimacy, since market economies (which could be argued to be a necessary condition for the existence of a liberal state) will not collapse when branding efforts cease. Religion is different from branding because of a different consent context. That is, autonomy violating communications in religion are stable for structural reasons and can hence be properly consented to, whereas communications in branding are changing constantly.

Because I remain undecided as to which type of consent to autonomy violation should be required by the liberal state I offer two conclusions. Those who think that limited consent conditions suffice should demand that such minimal consent procedures are integrated into branding contexts. Those who think that extensive consent conditions are required should be skeptical about the possibility of such consent procedures in branding, due to its rapidly changing content and form. If this skepticism is justified, then they must support a ban on autonomy violating branding.