

Advertising Self-regulation (ASR) in Spain. An Analysis of Complaints and Resolutions

1. Introduction

The mechanics of justice systems against illicit advertising are inefficient because by the time judges –who are on the whole not familiar with advertising (Edelstein 2003, 537)- come to a decision, the advertisement or campaign has already achieved the desired effect on its target audience as well as produced financial loss to competitors. In this regard, the communicative dimension of advertising renders it counteractive to the law and more responsive to self-regulation which, according to Boddewyn, is quicker, cheaper, and more efficient and effective than government regulation (1985, 131). LaBarbera agrees with this argument and claims that “effective voluntary control may also reduce the need and demand for government regulation which can result in contradictory rules, paperwork, and litigation costs as well as fines and other penalties” (1980, 27). However, most professionals "appear to be primarily influenced by legal considerations, as opposed to ethics" (Davis 1994, 399) in their decision making when it concerns advertising content and policy.

As the legal route is generally cost prohibitive for consumers, the existence of advertising self-regulation (ASR) systems provides an affordable and direct method for the defence of audience rights against harmful advertising. In this regard, the deficiencies of law provide a loophole where ethics become potentially important and could play a vital role (Preston 2010, 262). Thus, Law 29/2009 of 30 December which modifies the legal regime on unfair competition and advertising for the improved protection of consumers and users establishes the Codes of Conduct and Enforcement of

Compliance. More specifically, in Chapter V on Codes of Conduct, Article 37 stipulates that “[self-regulation systems will have independent control agencies to ensure the effective fulfilment of the commitments undertaken by participating companies]”. This Spanish regulation is a transposition of the Directive of Unfair Commercial Practices (Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market).

In this respect, Harker and Harker argue that “when advertising does offend, mislead or is untruthful, a structure needs to be in place in order to provide some protection (...) where the industry is responsible for controlling the conduct of its own members” (2002, 24). Nevertheless, one of the main criticisms of ASR systems focuses “on whether any organisation funded by the advertising industry could objectively evaluate advertising practices, especially one with so little public representation and few strong sanctions” (Armstrong and Ozanne 1983, 15). Funding is, in fact, the main reason why the independence of the ASR system in Spain (Asociación para la Autorregulación de la Comunicación Comercial (AACC), from now on Autocontrol) is put into question, in that it limits the imposition of coercive sanctions or acts *ex officio* against funding members of the organisation (Muela-Molina and Perelló-Oliver 2014, 13).

One of the main tools for effective ASR is the audit of the ASR programme. The analysis of sources and types of complaints (Harker and Harker 2002, 30; Harker 2003, 97) is considered adequate to detect weaknesses and propose improvements. The information it analyses is vital to learn about the behaviour of advertisers and their level of commitment towards the codes they have subscribed to. The analysis of complaints provides the framework for the object of study of this research. Thus, as well as

analysing the complaints submitted to Autocontrol, the present study will explore the existence of any type of relationship between complaints and ASR in Spain, aiming to detect possible contradictions that weaken the efficiency of the system and propose improvements for better consumer protection.

Complaints in an effective advertising self-regulation (ASR) Model

ASR is meant to work as an adequate, effective and inclusive alternative to the legal route. Its objective is to establish efficient out-of-court complaint mechanisms that ensure compliance with national legislation. In this way, one of its differentiating characteristics with the legal system is that it is more proactive than reactive (Boddewyn 1989). Its main function is to confirm that all agents involved in the production and broadcast of an advertising message respect the law and codes of conduct of the profession. However, Harker and Harker claim “that the compulsory system ensures withdrawal or modification of unacceptable advertisements, while the voluntary system merely hopes that the industry members who support the scheme financially will also comply with decisions affecting their livelihood” (2002, 28).

Literature suggests a conceptual model of effective ASR, comprising seven key components that should be addressed in order to improve the overall effectiveness of the system: funding, elaboration of a written code, complaint acceptance, code enforcement, audit of the advertising self-regulation programme, education and development of public awareness (Harker 2000; Harker and Harker 2002; Harker 2003). On the other hand, the EASA (European Advertising Standards Alliance) established guidelines for ASR based on 10 principles necessary for the practical and appropriate operation of self-regulation bodies and systems, to be applied by all members (European Advertising

Standards Alliance 2004). These principles were further grouped into four basic components by the European Commission (2006, p.17) in its proposal for a Best Practice Self-Regulation model on advertising that determines the efficiency of ASR: (1) Effectiveness; (2) Independence; (3) Coverage; and (4) Funding. Complaint handling is found within the first component as one of the factors evaluating ASR efficiency.

The United Kingdom stands out in Europe as the country that has developed the largest, most active and better funded ASR system in the world (Petty 1997, 3). Its established and proven efficiency is evident in the total number of complaints received over the last few years. Thus, in 2014 the United Kingdom received 37,073 complaints, followed by Germany with 13,157 and Sweden with 4,985; while Spain is 11th on the list with 308 complaints after Turkey with 517, and followed by Belgium with 213 (European Advertising Standards Alliance 2015, 5). One of the reasons that explain the low number of complaints received in Spain is the absence of a monitoring system. "This factor is vital for the effectiveness of the organisation and stems from its independence in terms of management and funding", as indicated by Muela-Molina and Perelló-Oliver (2014, 9).

Autocontrol is the organisation that manages the ASR system in Spain. Created in 1995 and member of the EASA, it is in charge of creating advertising codes of conduct and monitoring their compliance. On the other hand, the Advertising Jury is the body responsible for the resolution of complaints submitted to Autocontrol. This body specialises in deontological-advertising issues and claims to be independent. However, its members are chosen by Autocontrol's Board of Directors "composed, in its majority, of members of the association, i.e. presidents and chief executive officers of national

and multinational companies, communication or advertising agencies or the media” (Muela-Molina and Perelló-Oliver 2014, 12), which significantly undermines the effectiveness of Spanish ASR and puts into question its independence. Autocontrol is therefore responsible for the implementation of the complaint management system, in charge of the correct reception, processing and resolution of all submitted claims. In this respect, the procedure for the resolution of complaints (Autocontrol 2015) is the following (see Figure 1):

- (1) Any person –individual, company, business organisation, consumer organisation, public body, etc.- with a legitimate interest to proceed against a specific advertising communication must submit a written complaint.
- (2) The respondent party will receive a copy of the complaint and any supporting documents, and will then have a period of five days to submit a written response and supply any evidence considered appropriate.
- (3) Once the written response has been received or, where relevant, at the expiry of the five-day time limit, the Advertising Jury will examine all the paper work submitted by the disputing parties, carry out the necessary checks, and come to a resolution.

Advertising infractions will include one or all of the following pronouncements:

- a) Declaration of incorrect advertising.
- b) Withdrawal or amendment of the controversial advertising.
- c) Warning.
- d) Dissemination of the resolution in whichever way the Board of Directors deems pertinent for infractions considered especially serious by the Jury.

(4) In the event of a complaint against the commercial communication of an unrelated third party, the Advertising Jury “[will issue, automatically or at the request of the interested party, a verdict expressing its non-binding deontological opinion regarding the correctness of the commercial communications of the third party]” (Autocontrol 2015, 9).

(5) The complainant or advertiser can file an appeal against the decision of the Jury, which will be resolved by a different jury composed of members who did not participate in the first decision. This new resolution will follow the same guidelines described in point (3).

(6) “[The resolutions of the Advertising Jury will be binding for all members of Autocontrol]” (Autocontrol 2015, 12).

(7) “The Board of Directors will supervise and efficiently impose the final resolutions of the Advertising Jury” (Autocontrol 2015, 11).

[Figure 1]

The existence of possible failings in the resolution process is the main reason for the present work. The objectives of the research are (1) to analyse the nature of complaints and (2) analyse the existence or absence of a significant relationship between the type and nature of the resolutions adopted by the Jury and the type of offending advertiser.

Literature Background, Research Questions and Hypotheses

Most studies in this area have used the "complaint handling body" as the interface between the public/industry and regulators (Harker 2000). Research studies on

complaints have used content analysis to quantify their presence and evaluate their nature and characteristics. The preponderance of research in English-speaking countries should be noted, with examples such as the work of Armstrong and Ozanne (1983) which analysed 1,180 cases investigated by the National Advertising Division (NAD), a self-regulatory organisation of the United States, in three time periods: 1973-5, 1976-8, 1979-81. The content analysis of the complaints showed a trend in the process based on certain variables: advertiser, product category, media, case source (who complains), NAD's evaluation, advertiser's initial response, NAD's final evaluation, advertiser's final response, agreement between advertiser and NAD and final resolution. On the other hand, Lawson (1985) conducted research in the United Kingdom and analysed a sample of 506 complaints filed between October 1982 and March 1984, accounting for 17.3% of the complaints investigated by the Advertising Standards Authority (ASA) during that time, using similar but fewer variables than the previous example: source of complaint (subject of the complaint), product category and product attributes.

A large number of studies on the subject can also be found in Australia. Harker (2000) focuses on the interface between the process of complaint acceptance and code enforcement implemented by Australia's Advertising Standards Council and, on the basis of in-depth interviews and an analysis of trends in who complains, identifies forces affecting the process. Also in Australia, Kerr and Moran (2002) analysed trends in complaints by medium, product type, code and category (subject) in 1996, 1998, 1999 and 2000. On the other hand, Jones and Van Putten (2008) focused on complaints filed by members of the general public with the advertising regulatory bodies of Australia and New Zealand for years 2000 to 2004 and analysed the following variables: the number and type of complaint (advertiser and advertising medium) and

nature of complaint (regulatory code category or issue). Additionally, Volkov, Harker, and Harker (2002) chose a different methodological approach using surveys completed by complainants and non-complainants to analyse consumer complaint behaviour in Australia.

Together with New Zealand, the United Kingdom and the United States of America, Canada is a good example of ASR in action on the global stage (Harker, 2000). Wyckham's work (1996) focused on the analysis of misleading advertising during the period 1980-1994 in Canada. A total of 1,226 incidents were analysed by date, location of the offense, type of company (retailer, manufacturer), scope of operations (local, regional, national, international), product category, medium of the offending advertising message and characteristics of the resolution (amount of fine and court orders).

At European level, in addition to the research conducted in the United Kingdom, Sto and Glefjell (1992) analysed complaints submitted to the Consumer Ombud in Norway between 1973 and 1990 and supplemented the variables (who, product category, media and issues) with citizen surveys. The work of Medina and An (2012), a comparative study, focused on the analysis of seven variables (product category, challenger category, media type, ASR and advertiser response, codes and law, and basic principles) to compare Autocontrol with the NAD; however, this study is limited by the different time frameworks of the cases analysed in each country: 2005-2009 in Spain versus 1973-1981 in the United States. Estrela and Loureiro (2013) compared the ASR of two neighbouring countries, Spain and Portugal, analysing the following variables: number of complaints, type of infraction and source, sector of activity of offender and media type. And, finally, in Spain, Feenstra and González Esteban (2017) analysing the profile

of complainants and type of complaints in 2015 mientras que Perelló-Oliver and Muela-Molina (2016) analizaron seis variables relacionadas with complaints (product category, source of complaint, type of offending advertiser, infraction of the code, reason for complaint, resolution of the complaint) from 2010 to 2015; los mismos años fueron elegidos por Perelló-Oliver et al., (2016) para analizar complaints in health related products (complainant, type of offending advertiser, media, legal infraction, modality of the illicit, reason for complaint, resolution of the complaint).

The literature reviewed shows the prevalence of certain variables in the analysis of the characteristics of complaints, such as source of complaint (Armstrong and Ozanne 1983; Estrela and Loureiro 2013; Feenstra and González Esteban 2017; Harker 2000; Medina and An 2012; Perelló-Oliver and Muela Molina 2016; Perelló Oliver et al. 2016; Sto and Glefjell 1992; Wyckham 1996) and type of offending advertiser (Perelló Oliver and Muela Molina 2016; Perelló Oliver et al. 2016; Wyckham 1996). But research has also focused on the behaviour of advertisers by examining variables such as compliance with legislation (Estrela and Loureiro 2013; Jones and Van Putten 2008; Medina and An 2012; Perelló Oliver et al., 2016) and with the codes of conduct (Feenstra and González Esteban 2017; Jones and Van Putten 2008; Kerr and Moran 2002; Medina and An 2012; Perelló Oliver and Muela Molina 2016). On the basis of the background literature analysed, the present work aims to make progress on the analysis of ASR effectiveness in Spain, searching for significant relationships between the type and nature of the resolutions adopted by the Jury and the type of offending advertiser. Therefore, the first objective of this work, i.e. to analyse the nature of complaints, leads to the following research questions:

RQ1: Is there a relationship between the infraction of the law and codes and the type of advertiser?

RQ2: Which is the most prevalent complaint resolution and does it have a relationship with the complainant?

On the other hand, some research studies have also taken into account variables related to the response of ASR to complaints received (Armstrong and Ozanne 1983; Medina and An 2012; Perelló Oliver and Muela Molina 2016; Perelló Oliver *et al.* 2016; Wyckham 1996) or to appeal resolutions (Armstrong and Ozanne 1983), while others –commented in preceding paragraphs- have called into question Autocontrol's independence regarding the resolution of complaints. This lack of independence is partly due to the fact that the Jury is appointed by the Board of Directors, composed of presidents and chief executive officers of national and multinational companies (Muela-Molina and Perelló-Oliver 2014). In this regard, the second objective of this research is to analyse the existence or absence of a significant relationship between the type and nature of the resolutions adopted by the Jury and the type of offending advertiser, leading to the following hypotheses:

H1: The most prevalent complaint resolution is dismissed in the cases of bigger advertisers.

H2: The most prevalent complaint resolution is dismissed in cases of binding resolutions.

H3: The most prevalent appeal resolution is upheld or partially upheld when the advertiser is the appellant.

H4: The most prevalent appeal resolution is upheld or partially upheld in cases of binding resolutions.

Methodology

The present work has analysed the contents of all complaints submitted to Autocontrol between 2010 and 2015, with a total of 718 complaints distributed in time as shown in Table 1.

[Table 1]

The literature review and research questions have been the basis to operationalise the following variables:

1- Year of issue.

2- Source of complaint: (1) Company/competitor; (2) Consumer association; (3) Public authority; (4) Individual consumer; and (5) Cross border.

3- Type of offending advertiser: (1) Multinational; (2) National; and (3) Regional/Local.

4- Infraction of the law.

5- Breaching the code. The deontological basis of complaints is based on the violation of one or more principles of the different codes of conduct that regulate the advertising sector in Spain (Autocontrol 2011) and has two attributes: (1) General codes: Advertising Code of Conduct or Internet Code of Conduct (for digital communications); these are general and mutually exclusive codes as the latter establishes the same principles as the former but with the specificities of the digital medium; (2) Sector-specific codes: specific to product category or area of activity of the advertising.

6- Complaint Resolution. According to Autocontrol's statutes (2011), the decisions adopted by the Jury are: Dismissal; Amendment; Withdrawal; Warning; and Dissemination of the resolution.

7- Nature of the resolution. Depending on whether the offending advertiser is a member of Autocontrol or not, the resolution is Binding and Non-binding, respectively.

8- Source of Appeal. Who appeals is another variable that analyses a further step in the resolution process. This variable has the same attributes as the source of complaint, plus whoever is responsible for the offending advertisement: Offending advertiser; Company/competitor; Consumer association; Public authority; Individual consumer; Cross border.

9- Appeal Resolution. When the advertiser or complainant doesn't agree with the resolution of the ASR's Jury, he or she appeals and Autocontrol issues a final decision consistent with the following attributes: Dismissed or Upheld/ partially upheld.

The codification process was conducted by the authors in subsequent and independent rounds. This procedure (Perelló Oliver 2009) allowed the detection of possible mistakes in no case associated with the intersubjective perception of the encoders, as all the variables are structural and explicitly included in the analysed complaints. Due to this, and regarding the reliability of the codification process as a whole, it was not necessary to establish mechanisms to solve discrepancies due to contradictory interpretations between the participating researchers.

Results

The residual analysis allows the possibility of verifying whether there is an especially relevant relationship of attraction or rejection between two variables which have passed a χ^2 test of statistical significance. The aim is to identify the existence of anomalous cases that have a “[pattern of relationships significantly different from that of the majority of cases observed]” (Sánchez Carrión 1999, 341).

In response to research question 1, the results show that, throughout the studied period, there is a strong upward trend in the accumulation of alleged legal infractions and violations of the Advertising Code of Conduct. This second type of offense accounts for almost 58% of the 1,121 infractions (Table 2). Disaggregating by type of advertiser, it is multinationals that accumulate the highest number of complaints that include violations of the law and codes of conduct, both at an aggregated level and for

each of the years analysed. It is worth noting at this point that the 718 complaints often include more than one violation, which explains why the total number of alleged infractions committed by advertisers is noticeably higher than the number of complaints.

[Table 2]

Table 3 includes the results that answer research question 2 establishing that more than half of the total number of complaints submitted (284) are dismissed. For those that are upheld, the Jury mainly settles on the amendment (38.9%) and to a lesser extent withdrawal (21.6%) of the offending advertising. On the other hand, the role of consumers during this process is worth taking into account. A large number of complaints, nearly 39%, come from individual consumers who decide to defend their rights through the system, a trend that has steadily grown since the year 2010. Consumer associations also submit a significant number of complaints (31%) against advertisers. And, to a lesser extent, competitors (22%) report the alleged irresponsible practices of their counterparts.

[Table 3]

The statistic residuals show an especially relevant relationship of attraction between dismissal of the complaint and multinational advertisers (4.3%) when relating the resolutions adopted by the Jury with the type of offending advertiser (Table 4). Also noteworthy is the existence of rejection (-4.0) between the Jury's withdrawal resolution

of the advertisement and the multinational origin of the same. These results allow the acceptance of hypothesis 1.

The opposite situation is found in the case of national advertisers. These show a very strong relationship of rejection between the complaints against them and withdrawal resolutions (-3.6). At the same time, it is national advertisers who are more strongly obliged to withdraw their advertisements following complaints against them (3.9). Therefore, from the viewpoint of advertisers, when a complaint is submitted to Autocontrol, it is more favourable to be a multinational company, while from the viewpoint of consumers there is a higher chance of success when complaining against a national advertiser.

[Table 4]

The results shown in Table 5 address one of the key issues of ASR: the binding or non-binding nature of resolutions. It is worth remembering that resolutions are binding for all members of Autocontrol. This implies that non-members of Autocontrol are not obliged to fulfil the resolutions against them, as is usually the case. The data shows the existence of an unusually strong relationship of attraction (6.8) between dismissed resolutions and their binding nature. Since only Autocontrol's members receive binding resolutions, the results establish that being a member of this self-regulatory organisation favourably correlates with dismissed resolutions, which allows the acceptance of hypothesis 2. On the other hand, the data highlights that non-binding resolutions show a very strong relationship of attraction with the withdrawal of the

advertisement (6.3), so it can be concluded that non-members of Autocontrol have increased chances of the Jury settling on this decision.

[Table 5]

As summarised in Figure 1, the Jury's resolution can be appealed by the parties involved in the complaint. Table 6 relates the type of appeal resolution with the appellants. Offending advertisers accumulate the highest number of appeals (109) although these are generally dismissed. In this case, therefore, hypothesis 3 would be rejected. Competitor companies also tend to appeal and show a higher degree of success than advertisers. The statistic residuals indicate that the strongest attraction between dismissed or partially upheld appeals and the origin of these is found in competitor companies (6.3) that submit these complaints.

[Table 6]

Table 7 includes the relationships established between appeal resolutions and type of resolution. The data indicates that most advertisers who appeal are in fact members of Autocontrol. There is in indeed a very strong relationship of rejection between the absence of appeal and previous binding resolutions (-9.1), which imply membership. On the other hand, and in a symmetrical manner, advertisers who are not members of Autocontrol and subject to non-binding resolutions show a strong association with the absence of appeal. In any case, in this second decision, the appeals of members -therefore, binding resolutions- are mainly dismissed (8.4), so hypothesis 4 must also be rejected.

[Table 7]

Discussion

The present study makes progress on the analysis of complaints as one of the factors that measures the effectiveness of ASR to defend consumers. For Harker and Harker "effective ASR frameworks are one such remedy for unacceptable advertising practices" (2002, 25). Most studies only quantify the number of complaints received by relevant self-regulatory bodies and the nature of these. However, the starting point of this study is the questioned independence of Spanish ASR (Muela-Molina and Perelló-Oliver 2014) which could influence the resolution process of the Advertising Jury, a supposedly independent and specialised body appointed by the actual Board of Directors of Autocontrol, in turn composed of major advertisers, advertising agencies and media agencies.

The general conclusion that can be drawn from the research is that Autocontrol tends to protect the interests of advertisers –the organisation's main source of funding– rather than the rights of consumers. In this regard, multinationals are the companies that violate the law and codes of conduct the most while the Advertising Jury tends to dismiss, in half of all cases, the complaints against them.

The results show a strong relationship of attraction between multinationals and dismissed complaints and also a strong relationship of rejection between this type of company and withdrawal resolutions. This implies that when a complaint is processed, in the case of multinationals, the final resolution tends to be of amendment of the advertisement rather than withdrawal. The penalty is therefore quite mild and, in most cases, ineffective as the advertising subject to amendment is often no longer broadcast

or published by the time the resolution is issued. However, the resolution most frequently received by national advertisers is withdrawal of the advertisement. These conclusions support Boddewyn's theory that "relatively few cases are handled in proportion to the number of advertisements and the true extent of advertising failures, many ASR decisions come too late [and] ASR penalties are relatively mild" (1989, 23) and the suggestion of Bian *et al.* that "more stringent governmental legislative interventions may perhaps be required to exert more control" (2001, 400).

A further objective of the research was to establish the relationship between the type of complaint and nature of the advertiser. It is worth highlighting that the non-binding nature of complaints is specific to complaints addressed against companies that are not members of Autocontrol. The results also clearly establish that complaints against members of Autocontrol are usually dismissed. In parallel to this, in the case of non-members, the Jury tends to uphold the complaints addressed against them and the most frequent resolution is withdrawal of the advertising.

With regards appeals, these are normally dismissed when submitted by advertisers and upheld when submitted by competitor companies. Additionally, most appeals are submitted by members and also dismissed. Although these results apparently do not support two of the hypotheses, they do confirm all previous results. That is, on one hand, that the fact that most appeals are submitted by members and dismissed is of little consequence since, as previously indicated, the majority of binding complaints are dismissed. And, on the other hand, the fact that non-members of Autocontrol do not bother to appeal resolutions they are, in fact, not obliged to fulfil. Therefore, in any case, it is offending advertisers and affected competitors that mainly benefit from the system. Never the consumer. However, once the results have been

obtained, and regarding future research, it would be important to disaggregate the type of advertiser in the appeal process. As well as the type of competitor company. This would allow a higher precision of the resolution profile in relation to this variable.

Implications

According to Autocontrol's regulations, the Jury issues resolutions that dismiss the complaint or adopt the measures typified in variable 6 of the methodology. It is therefore not possible to know if the complaint is totally or partially upheld. The case may be that a complaint includes several alleged irregularities and the Jury decides to uphold only one, settling on the amendment or withdrawal of the advertisement, a warning, or dissemination of the resolution when the offence is considered serious. This explains the fact that the quantity and percentage of complaints upheld by ASR through the Jury tend to have an upward bias in relation to the initial number of claimed infractions. In this context, Autocontrol should correct the following two issues. First, it would be important to indicate in the resolution if its acceptance is partial or total. Secondly, it should explicitly indicate which infractions are upheld and which are not, as well as the measures that the advertiser must adopt for each particular case.

The analysis of complaints has detected a further weakness in the process regarding the obligation of the Board of Directors to supervise and effectively enforce the implementation of resolutions (Autocontrol 2015, 11). Information on the follow-up and control of the implementation of resolutions has not been found. Consequently, the AUC (Asociación de Usuarios de la Comunicación [Association of Communication Users]) has been approached, as the most proactive consumer association in Spain and responsible for nearly 31% of the analysed complaints. This lack of supervision and

follow-up on the part of Autocontrol has been mentioned in previous work (Muela-Molina and Perelló-Oliver 2011, 405).

According to the European Advertising Standards Alliance (2004) "a levy system based on a small percentage of all advertising expenditure has been found to be a very satisfactory way of fulfilling all these criteria" (2004, 13). In similar terms, the European Commission indicates that "the levy-based system of funding seems to be the most effective and should be preferred for those countries now launching SR. Levies should be designed to meet essential SRO costs" (2006, 32). It also suggests that a funding model based on contributions or the subscription of members would only be desirable in the start-up stage of ASR (European Commission, 2006). Therefore, Autocontrol, which has been operating for more than 20 years, should have modified its funding system some time ago in order not to depend on membership fees. "The pillars on which the association is built must be solid in order for its actions and defence of consumer rights to be effective" (Muela-Molina and Perelló-Oliver 2014, 15). The Advertising Jury should be composed of independent experts on the subject (European Commission, 2006).

Compared with other European countries, the number of complaints submitted to Autocontrol is very low. Sto and Glefjell argue that "the most important reason not to complain is that it demands too much effort" (1992, 136). In this regard, Autocontrol requires that complainants describe the ethical rules violated by the offending advertisement as well as report the facts that, in their opinion, provide evidence of the violation.

Therefore, it would be important for Autocontrol to facilitate the initial stages of the process (Feenstra and González Esteban 2017), allowing complainants to submit

their claim without the need to substantiate it with the possible violation of a certain law or code. At the same time, it should increase the number of available channels to submit complaints. At the moment, it is only possible to do so by post or online. In this respect, the European Commission suggests that complaints may be submitted through various channels such as by telephone or text message, which is already in practice in the UK where the Advertising Standards Authority (ASA) receives complaints sent from mobile phones.

Future Research

Further research would enable proposals for the improvement of consumer rights in advertising and the perceptions of consumers as stakeholders (Bian *et al.* 2011). More specifically, the relationship between the complaint process and the consumer needs to be given more attention. Volkov *et al.* (2002) addressed this matter in their analysis of consumer behaviour and consumer complaint behaviour. However, the focus of research should also be placed on analysing the awareness of people regarding the existence of ASR, its functions, their consumer rights and how to demand that these are respected. According to Sto and Glefjell "some, however, didn't know who to turn to with their complaint" (1992, 136). ASR should therefore make it part of its responsibility to educate the general public on these matters and improve consumer awareness (European Advertising Standards Alliance, 2004; European Commission, 2006). According to Boddewyn, relatively little publicity is given to ASR standards (1989, 23).

Another area which requires further study is the relationship between Autocontrol and the media responsible for publishing or broadcasting offending and illicit advertising. The media cannot be alien to the ASR process or ignore the

resolutions issued. An effective means to address this matter would require a commitment from the media as a whole to uphold the decisions of ASR and the agreement of all parties involved to be bound by such decisions (European Advertising Standards Alliance 2004, 14). However, media commitment to its audience and potential consumers is never part of the complaint and resolution process.

Finally, a further line of research would focus on the study, design and development of protocols that enable the easy identification of different types of illicit advertising, including: (1) misleading and unfair advertising which violates basic legal principles; (2) advertising subject to special regulations due to the product or service, such as health, alcohol or tobacco; (3) advertising that targets certain vulnerable audiences, such as children and young people; (4) advertising that takes place during “kids” viewing time; and (5) product placement and disguised advertising, among many other types. In this respect, “formal standards for the identification of unlawful and irresponsible advertising, and a reduced ambiguity in guidelines for the presentation of specific types of claims” as suggested by Davis (1994, 400) would be useful tools for advertisers, agencies and the media, as well as for all people involved in advertising in any way.

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TABLE 1

Distribution of complaints by year

2010	2011	2012	2013	2014	2015	Total
85	83	77	122	159	192	718
11.8	11.6	10.7	17.0	22.1	26.7	100.0

TABLE 2

Alleged infractions of the law and codes of conduct included in the complaints, by type of advertiser and year, in absolute numbers and horizontal percentage

	2010			2011			2012			2013			2014			2015			Total		
	M	N	L	M	N	L	M	N	L	M	N	L	M	N	L	M	N	L	M	N	L
Legal infraction	22	9	2	32	10	0	26	12	1	42	33	2	51	44	10	53	47	7	226	155	22
	9.7	5.8	9.1	14.2	6.5	.0	11.5	7.7	4.5	18.6	21.3	9.1	22.6	28.4	45.5	23.5	30.3	31.8	100.	100.	100.
ACC/ Internet CC	52	16	5	50	18	2	40	16	4	68	43	5	82	54	12	112	63	8	404	210	36
	12.9	7.6	13.9	12.4	8.6	5.6	9.9	7.6	11.1	16.8	20.5	13.9	20.3	25.7	33.3	27.7	30.0	22.2	100.	100.	100.
Sector- specific Codes	7	5	0	12	1	0	13	4	0	5	1	0	5	5	1	8	1	0	50	17	1
	14.0	29.4	.0	24.0	5.9	.0	26.0	23.5	.0	10.0	5.9	.0	10.0	29.4	100.	16.0	5.9	.0	100.	100.	100.
Total	81	30	7	94	29	2	79	32	5	115	77	7	138	103	23	173	111	15	680	382	59
	11.9	7.9	11.9	13.8	7.6	3.4	11.6	8.4	8.5	16.9	20.2	11.9	20.3	27.0	39.0	25.4	29.1	25.4	100.	100.	100.

Note: M: Multinational; N: National; L: Local

TABLE 3

Resolution of complaints by origin and year, in absolute numbers and horizontal percentage

	2010			2011			2012			2013			2014			2015			Total		
	Dis	Amd	Wit	Dis	Amd	Wit	Dis	Amd	Wit	Dis	Amd	Wit	Dis	Amd	Wit	Dis	Amd	Wit	Dis	Amd	Wit
Companies	11	20	10	10	18	3	7	10	3	2	17	7	3	16	6	6	9	3	39	90	32
	26.8	48.8	24.4	32.3	58.1	9.7	35.0	50.0	15.0	7.7	65.4	26.9	12.0	64.0	24.0	33.3	50.0	16.7	24.2	55.9	19.9
Consumer associations	10	10	4	12	17	1	15	9	7	7	15	19	7	19	20	17	21	12	68	91	63
	41.7	41.7	16.7	40.0	56.7	3.3	48.4	29.0	22.6	17.1	36.6	46.3	15.2	41.3	43.5	34.0	42.0	24.0	30.6	41.0	28.4
Public bodies	1	0	1	2	1	1	0	1	0	1	3	0	3	6	0	4	5	15	11	16	17
	50.0	.0	50.0	50.0	25.0	25.0	.0	100.0	.0	25.0	75.0	.0	33.3	66.7	.0	16.7	20.8	62.5	25.0	36.4	38.6
Individual consumers	10	3	2	9	6	3	12	7	2	33	10	6	38	29	11	60	25	13	162	80	37
	66.7	20.0	13.3	50.0	33.3	16.7	57.1	33.3	9.5	67.3	20.4	12.2	48.7	37.2	14.1	61.2	25.5	13.3	58.1	28.7	13.3
Cross-border	0	0	3	0	0	0	1	2	1	1	0	1	1	0	0	1	0	1	4	2	6
	.0	.0	100.0	.0	.0	.0	25.0	50.0	25.0	50.0	.0	50.0	100.0	.0	.0	50.0	.0	50.0	33.3	16.7	50.0
Total	32	33	20	33	42	8	35	29	13	44	45	33	52	70	37	88	60	44	284	279	155
	37.6	38.8	23.5	39.8	50.6	9.6	45.5	37.7	16.9	36.1	36.9	27.0	32.7	44.0	23.3	45.8	31.3	22.9	39.6	38.9	21.6

Note: Dis: Dismissal; Amd: Amendment; Wit: Withdrawal. Warning and Dissemination are not included in the table because there is an absence of cases

TABLE 4

Jury resolutions by type of advertiser, in absolute numbers, percentages and residuals

	Multinational	National	Local	Total
Dismissal	207	68	9	284
	72.9 (4.3)	23.9 (-3.6)	3.2 (-1.9)	100.0
	45.6	30.0	24.3	39.6
Amendment	170	90	19	279
	60.9 (-1.0)	32.3 (.3)	6.8 (1.6)	100.0
	37.4	39.6	51.4	38.9
Withdrawal	77	69	9	155
	49.7 (-4.0)	44.5 (3.9)	5.8 (.4)	100.0
	17.0	30.4	24.3	21.6
Total	454	227	37	718
	63.2	31.6	5.2	100.0
	100.0	100.0	100.0	100.0

Note: All paths are significant (statistical residuals are in parentheses).

$\chi^2 (4, N=718) = 26,191, p < .001$.

Warning and Dissemination are not included in the table because there is an absence of cases.

TABLE 5
Jury resolutions by type of resolution. Residuals

	Type of resolution	
	Binding	Non-binding
Dismissal	6.8	-6.8
Amendment	-1.5	1.5
Withdrawal	-6.3	6.3

Note: All paths are significant. $\chi^2 (8, N=718) = 60,493, p<.001$

TABLE 6
Appeal resolutions by origin, in absolute numbers, percentages and residuals

	Absence	Dismissed	Upheld / Partially upheld		Total
Absence	531	0	0		531
	100.0	.0	.0		100.0
	100.0	.0	.0		74.0
Advertisers	0	100	9		109
	.0 (-19.1)	91.7 (18.4)	8.3 (3,8)		100.0
	.0	59.9	45.0		15.2
Companies	0	37	8		45
	.0 (-11.7)	82.2 (9.7)	17.8 (6,3)		100.0
	.0	22.2	40.0		6.3
Consumer Associations	0	19	1		20
	.0 (-7.6)	95.0 (7.7)	5.0 (,6)		100.0
	.0	11.4	5.0		2.8
Public bodies	0	2	0		2
	.0 (-2.4)	100.0 (2.6)	.0 (-,2)		100.0
	.0	1.2	.0		.3
Individual consumers	0	9	2		11
	.0 (-5.6)	81.8 (4.6)	18.2 (3,1)		100.0
	.0	5.4	10.0		1.5
Total	531	167	20		718
	74.0	23.3	2.8		100.0
	100.0	100.0	100.0		100.0

Note: All paths are significant (statistical residuals are in parentheses).

$\chi^2 (10, N=718) = 735,685, p < .001$

TABLE 7
Appeal resolutions by type of resolution. Residuals

	Type of resolution	
	Binding	Non-binding
Absence	-9.1	9.1
Dismissed	8.4	-8.4
Upheld / Partially upheld	2.6	-2.6

Note: All paths are significant (statistical residuals are in parentheses).
 $\chi^2 (8, N=718) = 82,543, p < .001$

FIGURE 1
Complaint process

