

Advertising self-regulation activity: A Comparison between Spain and US

Publizitatearen autorregulazioa. Espainia eta Estatu Batuen arteko konparaketa

Autorregulación publicitaria. Comparación entre España y Estados Unidos

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Abstract

This study evaluates the activity of the Spain's advertising self-regulatory system, Autocontrol, from 2005-2009. The cases analyzed were coded according to product category, challenger, media, Autocontrol and advertiser response, codes and laws involved and basic principles addressed. Results were compared to the activity developed by Autocontrol during the last nineties and to the US case. Ramos (2001) analyzed the cases attended by AACCC from 1996-2000 and Armstrong and Ozanne's (1983) did something similar with the American Association. The findings point to more active participation of consumer organizations and consumers in Spain, as compared to that in U.S. and the years before.

Keywords: advertising, protection, regulation, consumer, United States, Spain.

Laburpena

Autocontrolak 2005etik 2009ra bitartean buruturiko jarduera gainbegiratzten da. Iragarritako produktuaren, eskatzailearen, iragarkiak jaso dituzten hedabideen, Autocontrolen eta iragarlearen erantzunaren eta urraturiko kode, lege eta printzipioen arabera sailkatu dira aztertutako kasuak. Emaitzak erakunde berak duela hamar urte buruturik lanarekin eta kasu amerikararekin alderatu dira. Horretarako Ramosek (2001) eta Armstrongek eta Ozannek (1983) buruturiko lanak erabili dira. Datuek erakusten dute Espainian kontsumitzaileen eta kontsumitzaileen erakundeen jarduera handiagoa dela duela hamar urte baino eta Estatu Batuetan baino.

Gako-hitzak: publizitatea, arauketa, babesa, kontsumoa, Estatu Batuak, Espainia.

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Resumen

Se revisa la actividad desarrollada por Autocontrol de 2005 a 2009. Los casos estudiados han sido clasificados de acuerdo a los productos anunciados, al demandante, a los medios donde se incluyen los anuncios, a la respuesta de Autocontrol y del anunciante, y a los códigos, leyes y principios éticos infringidos. Los resultados se comparan con la actividad desarrollada por el organismo diez años antes y con la el caso americano. Para ello, se utilizan los trabajos realizados por Ramos (2001) y Armstrong y Ozanne (1983). Los datos muestran que en España la actividad de los consumidores y de las organizaciones de consumidores es más activa que en Estados Unidos y que hace diez años.

Palabras clave: publicidad, regulación, protección, consumo, Estados Unidos, España.

0. Introduction

With the increasingly pervasive role of advertising in many societies, regulation of advertising contents and managing its regulatory system became a key issue. Among the managing systems, advertising self-regulation has been viewed as both an efficient alternative and a complementary approach to the various governmental regulations. Although the details of advertising self-regulatory systems vary from country to country, most systems share the primary goal of promoting an autonomous and effective way to control advertising practices that is governed by the industry itself and to keep the Government out.

Extant research has focused on general regulatory procedures and frameworks of self-regulatory systems (see Boddeywn, 1988; Harker & Harker, 2002; Taylor, 2002, Patiño 2007), along with theoretical and normative discussions about the functions of self-regulation (see Boddeywn, 1989).

Many authors point out the limitations of the codes and self-regulation practices (Baum, 1961; Levin, 1967; Stern, 1971). As Rotfeld (1992: 87) stated, “industry codes can suggest desired practices, but they cannot force those practices on members”. Some of them outline the power of media owners and managers to determine the type of advertising they carry (La Barbera, 1983; Wyckham, 1987). Abernethy and Le Blanc (2001: 37) studied the relationship between self-regulation and television advertising. Though they focus on the American system, which differs from the Spanish one, it is important to note that: “(tv) stations subscribing to an industry wide code of good advertising review procedures could (...) potentially boost their ratings”.

However, little scholarly attention has been paid to the actual review activities and performances of self-regulatory systems. Furthermore, the few available studies analyzing actual review activities are concentrated on the U.S. self-regulatory system (Armstrong, 1984; Armstrong & Ozanne, 1983; Zanut, 1977). To broaden and deepen our understanding of the practices of advertising self-regulatory systems, an evaluation of other countries, especially non-English-speaking countries' self-regulatory systems is warranted. The current paper will present a case study of advertising self-regulation in Spain.

Asociación para la Autorregulación de la Comunicación Comercial (AACC) is the Spanish self-regulatory association for commercial communications. Ramos (2001) analyzed the AACC activity from 1996 to 2000 and showed that about one fifth of the cases involved the principles of truthfulness, and about 70 percent of appeals were refused by the AACC. Since 2000, the media environment in Spain has changed with the advent of the Internet and the development of the DTT. Furthermore, the AACC incorporated a “Copy Advice” service for advertisers in 2001.

How those new developments affected the review activities of the AACC awaits a systematic evaluation, as does a cross-cultural comparison to other self-regulatory systems. The purpose of this study is to examine recent review activities of the AACC (2005-2009) and to see how the new media have influenced its activity in comparison with the nineties and to compare them to the activities of its U.S. counterpart, the National Advertising Division (NAD). The structure of the paper will follow the next points: first, we will review the history and fundamentals of the Spanish advertising self-regulation association; second, we will describe the procedure

of the self-regulation judgement; next we will compare it with the American one and outline the most relevant differences; third, we will describe the methodology of our study and analyze the results in comparison with those of the last nineties and the ones obtain for NAD; and finally, we will rise some conclusions.

1. Spanish Advertising Self-regulation

AC (Autocontrol), a precursor of the AACC, existed since 1977 (Gómez & Lema 1981). In 1995, the AAP (Asociación de Autocontrol de la Publicidad), and its related statutes, was created, which later became the AACC (Asociación para la Autorregulación de la Comunicación Comercial). The AACC is one of the entities authorized to judge commercial communication, children and data protection on the web. The AACC has become a reference for the implementation and monitoring of sectorial codes in all advertising fields and for other countries (Ferrero, 2008; Gómez 2010). To date, it has signed self-regulatory agreements in different fields, including the *Television Advertising* agreement (2002), the *Confianza Online Code* (2002) and the *Code PAOS* (2005) about advertising for children based on the EU “Principles of food and beverage product advertising”.

The regulatory work carried out by Autocontrol is truly evident in the context of television advertising. Along with the Telecommunications and Information Society Spanish Department (SETSI) – the Spanish authority to improve the ICTs, – the AACC strives to promote TV advertising self-regulation under an agreement signed between both entities. Under this agreement, SETSI recognizes the utility of the self-regulatory procedure for television advertising as a complementary mechanism for administrative and judicial procedures. The self-regulatory system was created by an agreement, *Television Advertising*, signed in 2002 by the following television companies: Telecinco, RTVE, Antena3, Cuatro (Sogecable), the Regional Channels Association (FORTA) and the Spanish Association of Advertisers (AEA). Later, la Sexta and other regional channels joined this system. By signing this Agreement, TV channels can request *Copy Advice* on a particular ad when they have doubts about its correctness. According to Autocontrol and in the context of the agreements mentioned previously, in 2009 the *Copy Advice Team* has reviewed 4,859 television advertisements; of these 3,527 obtained a positive Copy Advice result, 1,013 with modifications and 319 were negative.

In the field of television advertising, special efforts are made in relation to the protection of minors. At the request of advertisers, agencies or the media, the AACC revised in 2008 about 90% of the ads aimed at children on television before broadcast. The advertisement of toys, videogames and food to children are of special interest to the AACC. According to the *PAOS Code*, children are considered especially under 12 years old.

Confianza Online was created late 2002 by an agreement between the AACC and the AECM (the *Spanish Association of E-Commerce and Relational Marketing*). Its main goal was to increase the confidence of consumers in relatively new interactive media. The goal of this agreement was to promote and reinforce the confidence of web page users through a joint self-regulatory system. Moreover, this integration is done with openness towards different institutions, both public and private, that wish to join the initiative.

Confianza Online received in 2005 the “Public Distinctive Seal of Trust” granted by the Government because it meets the requirements established by law 292/2004, which develops the Spanish Law of e-commerce (LSSI). Currently, more than 350 company websites adhere to the agreement and thus display the *Confianza Online* seal (Confianza Online 2009). The out-of-court bodies for the settlement of disputes are those integrated in *Confianza Online*: the National Consumer Arbitration Board for matters that have not been resolved by the mediation committee of the AECEM, and the Jury of Autocontrol. To date, regarding interactive advertising, they are the only bodies recognized in terms of the Information Society Services Law. Between 2005 and 2009, the Jury of Autocontrol received 19 complaints on interactive advertising to which the *Confianza Online* Code was applied.

Autocontrol is also a member of the European Advertising Standards Alliance. EASA is a non-profit organization based in Brussels, which brings together national advertising self-regulation organizations (SROs) and organizations representing the advertising industry in the European Union. It is formed by 32 SRO's of the European Union, as well as international organizations located in other countries – such as Switzerland, Turkey, Canada, South Africa, Brazil, New Zealand, – and 16 European advertising industry associations (Cunningham 2000). Some EASA member bodies are more than 50 years old, such as the Advertising Standards Authority (ASA) in the U.K. and the Bureau de Vérification de la Publicité (BVP) in France. The AACC is one of the youngest member bodies in the EASA. The AACC participates in the EASA system which handles cross-border complaints. This allows any European Union consumer to submit a complaint to the relevant foreign advertising self-regulation body through the equivalent body in his own country.

Autocontrol has more than 300 members, among them all the television broadcasters and other media, more than a hundred advertisers, around thirty advertising agencies, and the main advertising associations. AACC is a non-profit association, funded by members' fees (Martín-Llaguno, 2005). To be member of AACC they need to pay fees from €750 to €9,200 per year depending on their advertising investment.

The new rules were applicable from 2002, after their publication on Autocontrol's site and in its monthly newsletter. They apply to all advertising communication activities, which, directly or indirectly, encourage the trading of goods or services or promote trademarks or trade names, whatever the medium was used. The code mainly describes the procedure of the AACC and the 29 basic principles. In our study we also included the principle of *Confianza Online* and “other principles”.

According to the industry, advertising is an activity that should be practised with the application of basic ethical and legal principles. The difference between laws and codes is that laws are approved by the Government and can be enforced legally, and codes are an agreement among professional parties about professional behaviors and ethics (Fernando, 2008).

The mission of the AACC is to promote the truth and accuracy of advertising and the most important factor is that the initiative comes from the industry. Its activity and procedure was reflected on *the Code of Advertising Practice*, signed in 1996 and updated at 2002. According to this code, “the purpose of the AACC is to ensure that advertising constitutes a particularly useful instrument in the economic process, to

ensure respect for ethics in advertising and to protect consumers' rights, excluding the defence of corporate interests."

The following principles are the most common ones (Patiño, 2007). The most important principle is the one of *Truthfulness*, which means that advertising will not be misleading. Misleading advertising refers to advertising that in any way induces or may induce erroneous conclusions in users related to the characteristics of goods, activities or services; the price, legal and financial conditions of purchase; the use and delivery of the products or the performance of the services and after-sales services.

The *Principle of respect for legality* says that advertising must respect current legislation and especially all values, rights and principles recognised under the Spanish Constitution. The main law of advertising is the General Law of Advertising (LGP 34/1988), but there are also some in other sectors. Moreover, advertising should not incite *violence* and *illegal behaviour*, nor will it suggest that there are any advantages in violent attitudes. In a positive way, advertising must never constitute a means to abuse of *good faith* of the consumer and must not include contents that cause offence against prevailing standards of *good taste*, social decorum, and good customs.

There are some other principles relating to respect for others and human dignity, such as the *Principle of denigration*. For example, at no time should a competitor be mentioned in reference to his personal circumstances or his company's. *Discriminatory advertising* based on race, nationality, religion, sex or sexual orientation should be avoided and *comparisons* between a product's own activity, services or establishment and those of others must be based on essential and similar characteristics. Such advertising will always be truthful and will not be expressed in disdainful or denigrating terms.

Finally, commercial messages addressing children have a special social impact. They must be handled extremely carefully, i.e. they must not exploit the natural ingenuity, immaturity, inexperience or credulity of children or adolescents, nor must they take advantage of their sense of loyalty, or contain declarations or visual presentations that might damage them mentally, morally or physically.

2. Procedure of Autocontrol

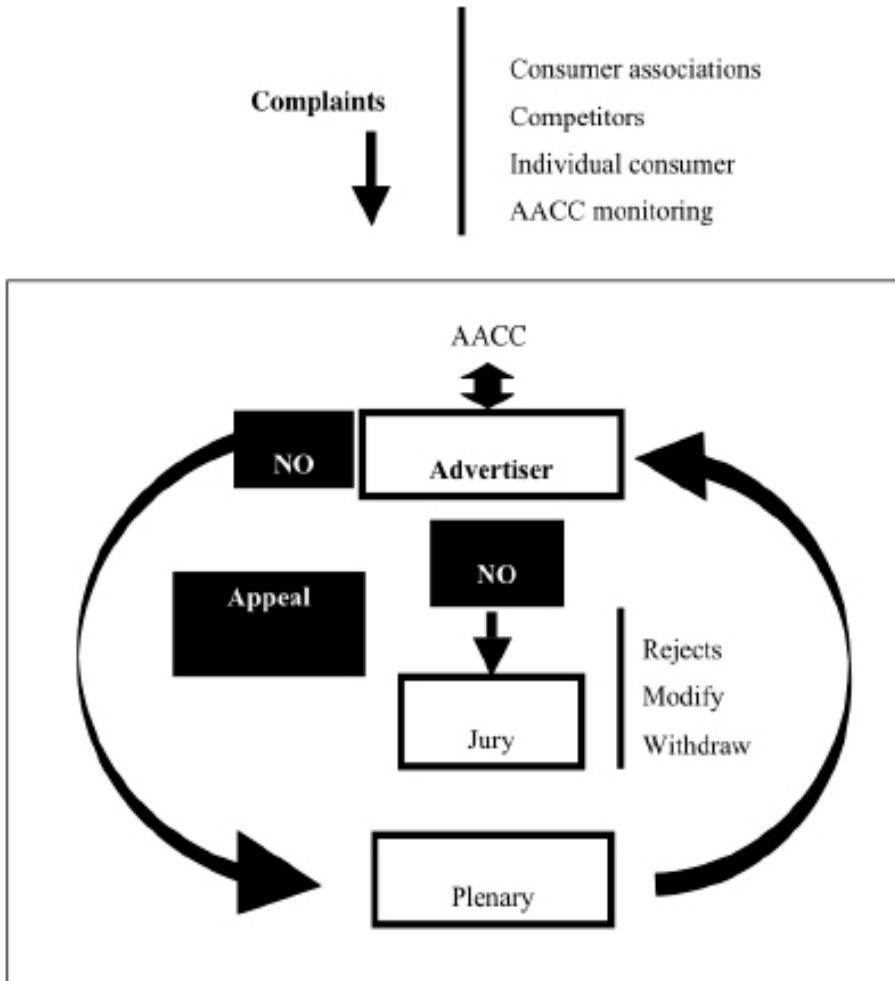
Autocontrol manages the advertising self-regulation system based on three key instruments: the *Code of Advertising Conduct*; an independent organism (*Autocontrol's Jury*) that solves controversies and complaints, and the *Copy Advice Team* that provides consultation prior to the airing of an ad via the Copy Advice service.

The AACC Advertising Jury consists of 13 members selected from advertisers, agencies, media, and members of the public. The specialized body is composed of independent lay experts in consumer affairs, such as academics on Law, Economics, Sociology and Commercial Communications; retired advertising practitioners; ex-civil servants, etc. 25% of its members are nominated by the Spanish National Institute on Consumer Affairs.

The Jury solves, by applying the Code of Conduct and the procedural rules governing the Jury's adjudication activity, all the complaints and controversies submitted against specific ads. The complaints can be submitted by anyone with a legitimate interest in making a complaint against a particular ad, whether they are a member of

the association or not. Challenges can come from consumer associations, competitors, the public, or AACC monitoring. The system is free for consumers, consumer associations, and public authorities. Complaints are heard by a division of the Jury and after review, the AACC may request advertisers to withdraw or modify the advertisement at issue. Mediations are resolved without the presence of the Jury. When an advertiser does not agree with the decision of the Jury, the resulting appeals must be solved through the Plenary Session, as shown in Figure 1.

Figure 1. AACC Procedure



However, AACC decisions are not legally binding, and affect only AACC members (Taylor, 2002; Patiño, 2007). The only penalty for non-compliance is to lose the privilege of being an AACC member. As Patiño (2007) criticizes that the penalty has to do more with the obligations of being a member, rather than the non-compliance of the ethical principles.

In spite of the voluntary nature of the system, the moral strength which accompanies the Jury's pronouncements is undeniable. Furthermore, the Unfair Competition Law (1991) states the obligation of using self-regulation systems prior to the commencement of a legal action in some cases, providing that the self-regulation system complies with the law in case of actions against the companies adhered to the Codes of Conduct. When those parties started a new proceeding in the Courts of Justice after the AACC's Jury took a decision, the judicial pronouncements have substantially agreed with the content of the pronouncements previously passed out by the Jury (Autocontrol, 2009).

The technical knowledge and impartiality demonstrated by the Jury's decisions have generated a high level of credibility and confidence in the advertising industry, the Government and society in general. A good example is that, to date, less than 5% of companies who have come under scrutiny have refused to carry out the Jury's decision (Autocontrol, 2009: 24). Furthermore, the ethical behaviour of the Spanish advertising is guaranteed by the own sector.

According to the *Rules of the Jury* from 23 April 1997, and the latest amendments approved by the Board of Directors on 10 May 2006, the Jury may sit in *Plenary Session* or in *Divisions*. The *Divisions* are each composed of four members, one of them being a Vice-Chairman of the Jury, who will chair the *Division*. Their duties involve issuing reports as requested by the Association; drafting codes and rules of conduct for the Association; and adjudicating on complaints alleging breaches of the codes or rules approved and/or applied by the AACC, submitted against commercial communications which have been published or broadcasted by members or by non-members that expressly or tacitly accept the competence of the Jury. The *Divisions* may also adjudicate on requests for revisions submitted by advertisers against copy advice reports, act as arbitrator on advertising matters submitted to its adjudication and deal with the explanatory requests established in the request for clarification.

The *Plenary Session* has the authority to approve the draft codes and rules of conduct on commercial communication matters prepared by the *Divisions*; to adjudicate on appeals filed against the decisions ruled by the *Divisions*, and to review the non-binding advisory opinions on non-members' advertising issued by the *Divisions* (Autocontrol, 2009).

Once a complaint is filed, the AACC Advertising *Jury* notifies the advertiser and most cases are resolved in about 30 days. A monthly newsletter publishes the full case transcripts, and decisions are posted online. The new rules of the *Jury* were approved in April 1997 and the latest amendments were approved in May 2006.

According to Autocontrol (2010), from July 1995 to January 2010 there were 2,230 cases; around 30% of these cases were solved through mediation or acceptance of the dispute in an average of 5 days, with the result of cancelling broadcast of the ad. Although copy advices started in 1997, their number has increased significantly. In 2001 they received 390 consultations and in 2009, the number of copy advices and consultations was 7,439. As a consequence, the number of cases decreased. In 2009 the number of cases was 192, compared to 247 in 2001. 30% of the claims were solved through mediation and accepted by the challenger, so the Jury decision was not necessary.

During these years the main reasons for the copy advices were the protection of children, the principle of legality, the principle of truthfulness, discriminatory advertising, denigration, violence, the principle of authenticity and comparisons.

3. Differences between AACC and NAD

NAD was founded in 1971, so at similar time as the Spanish association. Though, the last one took different forms until getting the current one. The NAD gives a ruling and report within 60 days from the time the complaint is received, while the Spanish one takes between 14 and 30 days, so it formally seems more efficient than the American one.

In the US, the Better Business Bureaus handle the local complaints; the NAD, which is one step further only handles national ads which they define as distributed on “a national or broadly regional” scope. In Spain all the complaints related to advertising are handle by AACC, rather than the local consumers associations.

The American system is more expensive than the Spanish association. Challenges made by companies and/or competitors shall be filed together with a check, made payable to the Council of Better Business Bureaus, as a filing fee to help defray some of the administrative costs associated with the advertising review process. Competitive challenges submitted to NAD by CBBB Corporate Partners shall be filed with a check in the amount of \$3,500 (€2,500). If the challenge is submitted by non-CBBB members they should pay since \$6,000 (€4,360) until \$20,000 (€14,535) depending on the gross annual revenue (NAD). In Spain, challenges are free. An appeal before the AACC section by non-members costs €2,400 and before the Jury by non-members, €650, and if the member requires a report by the AACC Technical Department, it costs €1,275 and €3,600 for no-members.

Petty and Kopp (1995) pointed out that 45% of challenges come from Better Business Bureau referrals, another 45% from NAD monitoring and only 10 percent from consumer complaints. According to Ramos (2001), most of the challenges in Spain come from the consumers associations.

The mission of the NAD is close to that of the AACC: “receiving or initiating, evaluating, analyzing and holding initial negotiations with an advertiser on complaints or questions from any source involving truth or accuracy of national advertising.” Noting that its goals appear to serve the public, the NAD reasoned that, because it was founded and supported by the advertising industry, there would be discrepancies between consumer expectations and those of the industry. They state that industry expectations “will serve to defuse consumerist concerns and forestall government regulation.” These goals have been cited since the NAD was founded.

On the contrary than in US, there have been a few studies on the Spanish self-regulatory system. Patiño's (2007) study included more recent cases, but presented a general purview of the AACC. Fernando (2008) also discussed the legal consolidation of the organization. Taylor (2002) compares the American system with the Spanish one and points out a seemingly distinctive mission of the AACC: its greater emphasis on matters of taste and ethics, compared to its U.S. counterpart. In fact, based on an analysis of NAD cases from 1973-1981, the NAD has largely avoided controversial issues, such as morality, taste and social responsibility (Armstrong and

Ozanne, 1983). It remains to be seen how the AACC tackles such issues through their review activities. In fact, NAD does not elaborate Codes of Practice as the Spanish one does (Miracle & Nevett, 1987: 278).

Armstrong and Ozanne (1983: 25) stated that the “NAD appears to be drifting toward... more clear-cut issues where resistance and disagreement are less likely”. Its tendency to avoid controversial issues was confirmed by content analysis showing that only five controversial issues were investigated during the first five years after the NAD was founded in 1971, and there were no cases from 1977 to 1983. The American Jury is formed by lawyers specialized in advertising and the Spanish one is formed by independent experts.

Both associations have a very strong industry support, but it seems that the US is even stronger than the Spanish: 94% to 96% of US advertising agencies participate, while the 70% of the Spanish advertising revenue do in Spain. Moreover, both have got a deep relationship with other public and administrative divisions. NAD has a close relationship with the Federal Trade Commission (FTC) as well as being a subset of the National Advertising Review Council. AACC has with the SETSI (Secretaría de Estado para las Telecomunicaciones y para la Sociedad de la Información) and many others Consumer and Producers Associations.

4. Methodology and results

We analysed 545 cases that were in the online monthly newsletters of Autocontrol and were solved between from January 2005 until May 2009. In order to simplify the study design, we did not distinguish the cases solved by the Jury from those solved through the Plenary Session. Each case was coded based on the following criteria: 1) product category, 2) challenger type, 3) media type, 4) AC response, 5) advertiser response, 6) codes and laws, and 7) basic principles. We will compare some of the results with NAD's data. We are not including Armstrong and Ozanne's data in the tables because was carried out twenty years ago. However, in the category of challenger we have included NAD's recent activity from 2007 to 2010.

4.1. Product Category

Table 1 shows the cases filed according to the product categories. In Spain cases on food (16.3%) represent the highest number of complaints from 2005 to 2009, followed by telecommunications (13.8%) and alcoholic drinks (10.5%). Other notable categories include drugs (8.6%) and cosmetics (7.89%). These product categories comprise 57% of the cases. The results were quite different from those of the NAD. Although Armstrong and Ozanne (1983) found that food was also the top category (15.3%), other top categories were lined up somewhat differently. Compared to the high ranking of automotive (12%) in NAD, it was not a category frequently observed by the AACC (2.75%). The entry of telecommunication in the AACC reports highlights the changing media landscape in the 2000s in Spain. Tourism is another area distinguishing AACC complaints from the NAD, reflecting the importance of Spain's tourism industry. Overall, despite the time and country differences, the food category appears to generate most complaints through both self-regulation systems.

Table 1. Selected Product Categories

Product Category	AACC 2005-2009
Food	89 (16.3%)
Telecoms	75 (13.8%)
Alcoholic drinks	57 (10.5%)
Drugs	47 (8.6%)
Cosmetics	43 (7.8%)
Drinks	29 (5.3 %)
Household	27 (4.9%)
Tourism	27 (4.9%)
Automotive	15 (2.75%)
Others	136 (24.9%)

4.2. Media Type

Table 2 shows the results according to media type. TV (32.6%) and Press (30.1%) were the most frequent media types reviewed by the AACC and online were next (7.2%). The AACC cases with multiple media were 5.8%. A total of 65 cases involving the Internet were found, and part of them was included in multiple media. There were two cases of mobile telephones. The pattern found in the AC was quite different from that of the NAD. In the NAD's case, print (64.2%) was the top category, followed by broadcast (42.2%). Considering the different time frames, 1973-1981 for the NAD versus 2005-2009 for the AC, the results illustrate well the changing media environments across the years. While the broadcast somewhat maintains its status, a sharp decline of print media cases documents the decreased use of that medium these days.

Table 2. Media Type

Media	AACC 2005-2009
TV	179 (32.6%)
Press	164 (30.0%)
Other	94 (17.2%)
Online	41 (7.2%)
Multiple media	32 (5.8%)
Packaging	10 (1.8%)
Radio & outdoors	25 (4.5%)

4.3. Challenger Category

Table 3 shows the challenger category. Results were compared to Ramos (2001) from 1996 to 2000 when the majority of the cases were filed by consumer associations (52%). Cases filed by other companies or competitors made up 28.2%. However, from 2005 to 2009, the cases filed by consumer associations dropped

slightly, to 47.5%, and challenges by competitors and other companies fell to 24.9%. As opposed to 7.5% of cases filed by citizens during 1996-2000, cases initiated by individual consumers significantly increased to 18.5% during 2005-2009. Cases brought about by AACC monitoring also increased from 0.9% during 1996-2000 to 4% during 2005-2009. Over time, more active participation of citizens and AC self-monitoring appear to be the key changes. There are also cases initiated by other self-regulation organizations related to child protection, medical and pharmacy associations (2%); national, regional or local authorities such as the National Blind People Organization (ONCE) (1.1%), and the trade associations of manufacturers, food providers, doctors, and marketing associations (1.8%).

In comparison to the NAD where consumers or consumer groups together filed 22% of cases in the eighties, the more active participation of consumer groups and citizens in Spain is noteworthy. Another striking difference came from the level of self-regulation monitoring. Compared to the AC's self-monitoring of just 2.3% of cases, the NAD self-monitoring of cases accounted for 29% of cases between 2007 to 2010 (NARC Online Archive).

More recently, complaints filed by competitors occupy the majority. Based on the NAD reports available online, about 68% of cases were brought by competitors from 2007 to 2010; 29% of cases were made by NAD monitoring; only 2.5% of cases were brought by local public authorities. Compared to the early years of NAD, a sharp increase in the cases filed by competitors are noticeable as well as the significant drop by consumers and consumer groups. Table 3 shows a summary of recent cases from 2007 to 2010. Each year, cases brought by competitors increased, while cases by consumers were rare.

Table 3. Challenger Category

Challenger	AACC 1996-2000	AACC 2005-2009	NAD 2007-2010
Consumer associations	319 (52%)	259 (47.5%)	
Other companies/competitors	109 (28%)	136 (24.9%)	353 (68%)
Individual consumers	29 (7.5%)	101 (18.5%)	1 (0.1%)
Other self-regulation organizations	11 (2.8%)	11 (2%)	
Public authorities/ Local Better Business Bureaus	6 (1.8%)	6 (1.1%)	13 (2.5%)
AACC/NAD monitoring	3 (0.9%)	22 (4.2%)	151 (29.1 %)
Other	14 (3.6%)	10 (1.8%)	

4.4. AACC Evaluation and Advertiser Response

Table 4 shows initial AC evaluations. The AC asked advertisers to modify the ad in more than 50% of the cases (52.2%). About 20% of cases (19.4%) were asked to be withdrawn. The AACC found 24.6% of the cases breaching rules and warned 3.6% of the advertisers. According to decisions, 58% of cases of NAD were either modified or substantiated over the years.

Table 4. AACC Evaluation

AACC Evaluation	AACC 2005-2009
To modify	285 (52.2%)
To withdraw	106 (19.4%)
The ad breaches the rules	134 (24.6%)
To warn	20 (3.8%)

Table 5 shows responses by advertisers. 57.4% accepted the AC's decision, 32.4% submitted an appeal, and 10% refused to respond. Comparisons to the NAD were not possible due to the different analysis schemes.

Table 5. Responses by Advertisers

Responses by Advertisers	AACC 2005-2009
Accept the decision	313 (57.4%)
Submit an appeal	177 (32.4%)
Refuse to respond	55 (10.0%)

4.5. Codes/Laws and Basic Principles

Table 6 shows that 63.7% of cases addressed the Code of Advertising Practice. Cases involving *Code of the Online Confidence* were 3.4% and cases on other codes were 16.5%. Cases in violation of laws were only 7.7%.

Table 6. Code or law

	AACC 2005-2009
Code of Advertising Practice	347 (63.7%)
Other codes	90 (16.5%)
Different laws	42 (7.7%)
Code of the Online Confidence	19 (3.4%)
Code of TV Contents Self-regulation	9 (1.6%)
Others	38 (6.9%)

Table 7 shows the most common principles that were addressed. Truthfulness, respect for legality, and abuse of good faith were the three most frequently addressed issues across time. Significant increases in truthfulness and respect for legality are noticeable. Cases on truthfulness were 19% during 1996-2000, while cases on truthfulness rose to

36.1% during 2005-2009. Respect for legality received greater attention during 2005-2009, 33.1%, compared to 9.8% during 1996-2000.

Table 7. Basic principles

Basic principles	AACC 2005-2009	AACC 1996-2000
Truthfulness	138 (36.1%)	72 (19%)
Respect for legality	139 (33.1%)	38 (9.8%)
Abuse of goof faith	60 (13.2%)	38 (9.8%)
Children protection	14 (3.1%)	5 (1.5%)
Denigration	8 (2.3%)	8 (2%)
Discriminatory adv	8 (1.7%)	(9%)*

* Note: Ramos includes only the percentage of cases of discriminatory advertising

In comparison to the NAD, where only five controversial issues were addressed from 1971 to 1976 and none from 1977 to 1983. A remarkable difference between the AACC and the NAD was found. The Autocontrol's frequent handling of cases involving code violations and ethical principles showcases its distinct organizational goals and performance as opposed to those of the NAD.

5. Discussion and conclusions

This study examined Autocontrol review activities and compared them to its past activities as well as its U.S. counterpart. The results show the distinctive activities of the two self-regulatory systems, evidenced by the different roles of consumers in terms of their participation in the self-regulatory system along with the agencies' contrasting review principles.

The volume of work of the AC has increased over the years. From 1996 to 2000, the AC reviewed 480 cases, an average of 96 cases per year (Ramos, 2001). From 2005-2009, its review cases increased to 683 with an average of 136 per year. The advent of the Internet and its widespread use as a channel for advertising appear to be a contributing factor. The self-regulations bodies have changed with the increase in new media, concentrating considering advertising that is online or found in other new media. Television advertising has also increased during the nineties.

Product categories handled by Autocontrol were quite different from the NAD, except the top category: food, which made up 16.3% of AC cases versus 15.3% of the NAD's cases. The lack of automotive cases in the AC's activities was noteworthy. The entry of telecommunication cases in AC reviews also draws a clear line between the activities of the NAD during 1973 to 1981 and activities of the AC during 2005-2009. While the top category stays the same across countries, notable entries of tourism in the AC and automotive in the NAD contrasts the two countries.

The challenger category showed the biggest difference between the Autocontrol and the NAD. Consumer groups were the top challenger category for AC. Over time, the majority of cases were brought up by consumer associations or individual consumers in Spain, while only 22% of U.S. cases were filed by those groups. In contrast,

the top challenger category in the U.S. was the NAD itself. A long the time, the increase of the participation of citizens and AACC self-monitoring appear to be one of key changes.

The other key difference drawing a line between the AC and the NAD was the cases involving more subtle issues, such as indecency and truthfulness. As Taylor (2001) pointed out, the AACC was actively handling cases on such subtle issues, which is in contrast to its U.S. counterpart. The function of NAD is focused on guarding the public from misleading advertising and taking an investigative role in anti-competitive advertising.

In that regard, Autocontrol has become responsible for controlling television advertising. If television companies would accept its decisions, it might become a very effective way to improve for example the trailers of some movies, at least during times when children are viewing.

However, AACC is criticized because of the lack of efficiency, mainly due to the length of the resolutions: 30 days is considered too long to resolve a case. Most of the times, the advertising campaign has already finished. On the other hand, the effectiveness of Autocontrol can be measured at least on the increment of copy advice consultants. In 2000 they received 254 and in 2009, 7,439. The average time for issuing a Copy Advice is from 24 hours for televisions to 72 hours for advertisers and agencies. According to the Association, the degree of the effectiveness of Copy Advice Service is high and helped to improve the knowledge of legal conditions on ads (Autocontrol 2010).

Limitations of the study should be acknowledged. Comparisons to the NAD are cautiously interpreted due to the different time frames. While results on the NAD were for the time from 1973-1981, analysis on the AACC was based on 2005-2009. A more recent case study on NAD activities will provide a clearer picture of the NAD's performance and allow a more accurate comparison to the AACC in recent years.

Finally, the current study prompts us to engage in more scholarly attention to the evaluation of different types of self-regulatory systems around the world. Given that the role of advertising as a form of marketing communication continues to expand and there are many countries without a self-regulatory system, a systematic analysis of existing self-regulation tools as well as comparative studies will benefit many stakeholders, leading to the development of more efficient and responsible ways of controlling advertising.

Bibliographic References

AUTOCONTROL de la publicidad site: <http://www.Autocontrol.es/panelcontrol/web/frameset/frinicio.asp> (last consultation 23 February, 2010).

AUTOCONTROL (2009) Rules of the Jury http://www.Autocontrol.es/pdfs/regl_ingles.pdf (last consultation 6 July, 2010).

- AUTOCONTROL (2010). Brochure *We work for a responsible advertising*. Autocontrol. http://www.Autocontrol.es/pdfs/folleto_ingles.pdf (last consultation 23 February, 2010).
- ABERNETHY, Avery; LE BLANC, Jan (2001). *Self-regulation and Television Advertising: A Replication and Extension*. **En:** *Journal of Advertising Research*, May-June, pp. 31-37.
- ARMSTRONG, Gary; OZANNE, Julie (1983). An Evaluation of NAD/NARB Purpose and Performance. **En:** *Journal of Advertising*, 12 (3), pp. 15-26.
- BAUM, Daniel J. (1961). Self Regulation and Antitrust: Suppression of Deceptive Advertising by the Publishing Media. **En:** *Syracuse Law Review*, 12 (Spring), pp. 289-304.
- BODDEWYN, Jean J. (1988). *Advertising Self-Regulation and Outside Participation*. New York: Quorum Books.
- BODDEWYN, Jean J. (1989). Advertising Self-Regulation: True Purpose and Limits. **En:** *Journal of Advertising*, 18 (2), pp. 19-27.
- CONFIANZA ONLINE (2009). Memoria de actividades. Confianza Online. <http://www.confianzaonline.es/Memoria%20Confianza%20Online%202009.pdf> (retrieved 02/09/11).
- CUNNINGAM, Anne (2000). Advertising Self-Regulation in a Broader Context: An Examination of the European Union's Regulatory Context: An Examination of the European Union's Regulatory Environment. **En:** *Journal of Promotion Management*, 5 (2), pp. 61-83.
- FERNANDO, M^a Rosario (2008). La consolidación de la autorregulación publicitaria en España: fomento normativo y reconocimiento jurisprudencial. **En:** *Estudios sobre consumo*, 84, pp. 71-83.
- FERRERO, Federico (2008). Autorregulación publicitaria en México, *Andinia.com*, 09/19/2008 <http://www.andinia.com/b2evolution/index.php/noticias-aire-libre/ciencia-tecnologia/salud-medicina/alimentacion-dietas-regimenes/autorregulacion-publicitaria-en-mexico> (Retrieved 02/19/2011).
- GÓMEZ, José Antonio; LEMA, Carlos (1981). La autodisciplina publicitaria en el derecho comparado y en el Derecho español. **En:** *ADI*, 7, pp. 31-114.
- GÓMEZ, José Domingo (2010). Interview to the Director of Autocontrol by María de las Heras. *El País*. 30 January, 36.
- HARKER, Debra; HARKER, Michael (2000). The Role of Codes of Conduct in the Advertising Self-Regulatory Framework. **En:** *Journal of Macromarketing* (20), pp. 155-166.
- LA BARBERA, Priscilla. A. (1980). The Diffusion of Trade Association Advertising Self-Regulation. **En:** *Journal of Marketing*, 47 (Winter), pp. 58-67.
- LAW 292/2004, dated February 20th, which develops the Spanish Law of e-commerce (LSSI).
- LAW 3/1991, date January 10th, Ley de Competencia desleal.
- LAW 34/1988, date November 11th, Ley General de Publicidad (LGP).
- LEWIN, H.J. (1967). The Limits of Self-Regulation. **En:** *Columbia Law Review*, 67 (April), pp. 603-644.
- MARTÍN-LLAGUNO, Marta (2005). Los otros componentes del sistema publicitario: en torno a la regulación y la autorregulación. **En:** VICTORIA, Juan Salvador. (coord.). *Re-estructuras del sistema publicitario*. Barcelona: Ariel, pp. 220 -235.

- MARTÍN-LLAGUNO, Marta; HERNÁNDEZ, Alejandra (2009). El control de la comunicación comercial en un mundo globalizado. Regulación, autorregulación e hiperregulación de la publicidad, 11 June. **En: Portal de la Comunicación**, in COM UAB. http://www.portalcomunicacion.com/esp/n_aab_lec_1.asp?id_lli-co=50 (retrieved 09/15/09).
- MIRACLE, Gordon. E.; NEVETT, Terence R. (1987). *Voluntary regulation of advertising: A comparative analysis of the United Kingdom and the United States*. Lexington: Lexington Books.
- NAD website: <http://www.nadreview.org/AboutNAD.aspx> (last consultation February 23, 2011).
- NARC Online Archive: <http://www.ascreviews.org/> (last consultation June 23, 2012).
- PATIÑO, Beatriz. (2007). *La autorregulación publicitaria: especial referencia al sistema español*. Barcelona: Bosch.
- PETTY, Ross; KOPP, Robert J. (1995). Advertising challenges: A Strategic Framework and Current Review. **En: Journal of Advertising Research**, (March/April), pp. 41-55.
- RAMOS, Fernando (2001). Autorregulación, mediación y consulta previa, la nueva frontera de la ética publicitaria. **En: ZER, Journal of Communication Studies**, n.º 11, November.
- ROTFELD, Herbert (1992). Power and Limitations of Media Clearance Practices and Advertising Self-Regulation. **En: Journal of Advertising**, 11 (1), 87-95.
- STERN, Louis L. (1971). Consumer Self-Protection via Self-Regulation. **En: Journal of Marketing**, 35 (July), pp. 47-53.
- TAYLOR, Ronald E. (2002). Inside the Asociación de Autocontrol de la Publicidad: A Qualitative Study of Advertising Self-Regulation in Spain. **En: Journal of Intercultural Communication Research**, 31 (3), pp. 181-190.