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## Unlawful advertising in the spotlight: complaints as a control mechanism

### Abstract

**Using quantitative analysis, complaints received by the Observatorio de la Imagen de las Mujeres (Monitoring Centre for the Portrayal of Women) during the period of 1999–2009 have been studied. This is with the objective of understanding the evolution of content that has been classified as unlawful advertising in the framework of article 3 of the General Advertising Law, 10 reports have been examined. The results show that in the Spanish advertising domain, the use of the female stereotype as an object is no longer a recurring element; however, sexism maintains its presence through other criteria that also trigger complaints.**

### Keywords

**complaints, woman, stereotypes, unlawful advertising, sexism**

### 1. Introduction

In Spain, over ten years, the *Observatorio de la Imagen de las Mujeres* (Monitoring Centre for the Portrayal of Women) has collected, processed and published reports about complaints filed, concerning advertisements deemed to be unlawful, submitted by individuals as well as organisations throughout the period of 1999–2009. The public complain about certain campaigns because, not only does publicity need to attract the attention of consumers; but the content must also be considered acceptable. The audience can also feel offended by the promotion of certain products (Waller, 1999; Waller, Fam & Erdogan, 2005). This can condition the effectiveness of creative strategies (Cronin & Fox, 2010) if, for example, perceptions about the presence of sexism in the messages (Infanger, Bosak & Sczesny, 2011) arise. Under these circumstances, in the link between advertising and sexism, the public has a prominent role, because of the cultural contexts in which they operate, are producers of meaning (Ang, 1995).

Within the publicity communication process, allegations have scope due to the receptors being implicated in three levels of involvement: high (rational analysis of provided information), dissonant (information needs to be rectified) and low (no evidence to pursue further) (Vanden & Butaye, 1980). At the time, involvement entails a process of pre-attention, focal attention, comprehension and elaboration of the meaning of the messages (Greenwald & Leavitt, 1984). These levels of involvement are not only specific to the promoted

products but also in relation to responses triggered in the audience in the way women, girls, boys and men are represented.

If it is considered that adverts contain gender stereotypes, sexual objectification, indecent images, inappropriate language or antisocial behaviour (Beard, 2008; Boddewyn & Kunz, 1991; Fam & Waller, 2003; Jones & Eagleton, 2011; Prendergast, Ho & Phau, 2002; Shimp & Stuart, 2004) reactions can be negative (Harker, 2000; García-Muñoz & Martínez-García, 2009). However, despite what is generally assumed, nudity and sex are not considered offensive themes in their own right (Zimmerman & Dahlberg, 2008). However, the female audience tend to show more discomfort when confronted with the aforementioned themes (Christy, 2006; Dianoux & Linhart, 2010; LaTour, 1990; Lysonsky & Pollay, 1990; Orth & Holancova, 2002; Rossi & Rossi, 1985). The public can be offended when there is a disparity between the elements of the advertisements and the free use of nudity or sex (Beetles & Harris, 2005; Christy & Haley, 2008). However, this can vary from one society to another (Chan et al., 2007), above all when it comes to the representation of gender roles (Ford, LaTour & Honeycutt, 1997; Jones & Reid, 2011).

In this sense, the debate about whether advertisement campaigns reinforce sexual stereotypes or if they reflect what is happening in society, is not a new concept (Sullivan & O'Connor, 1988). The representation of women, although not exclusively, have been marred by controversy (Boddewyn & Kunz, 1991; Craig, 1997; Kilbourne, 2005; LaTour, Henthorne & Williams, 1998). Throughout content analysis, sexism in advertising has been widely studied (Bretl & Cantor, 1988; Easton & Toner, 1983; Ford, LaTour & Honeycutt, 1997; Furnham & Mak, 1999; Furnham & Paltzer, 2010, 2011; Hovland et al., 2005; Reese, Whipple & Courtney, 1987; Royo-Vela et al., 2007; Wolin, 2003), paying special attention to gender stereotypes (Brown, El-Ansary & Darsey, 1976; Espín, Marín & Rodríguez, 2006; Garrido, 2007; Goffman, 1979; Klassen, Jasper & Schwartz, 1993; Piñeiro-Otero, 2010; Royo-Vela et al., 2007; Valls & Martínez, 2007).

In line with this trend, numerous studies detailing reports by *the Observatorio de la Imagen de las Mujeres del Instituto de la Mujer* (The Institute for Women's Monitoring Centre for the Portrayal of Women) have been carried out, which cannot be overlooked. The focus has concentrated principally on content analysis of complaints filed by individuals as well as groups. In this study, we focus on a quantitative analysis to establish if out of the complaint criteria, the female stereotype as a sexual object is still present as a major element of this type of complaint: if it has lost its protagonist role in Spanish publicity production or if it has ceased to be one of the main reasons behind complaints.

## 2. Unlawful Advertising Complaints

While advertising shows changes are taking shape in gender roles and the presence of sexism tends to decline, campaigns are still being launched with a clear predisposition to perpetuating stereotypical models (Eisend, 2010; Royo et al., 2007), which can end up negatively impacting on consumer intentions (Chan et al., 2007) and brand image (Bigné & Cruz, 2000; Jones & Reid, 2011).

The presence of certain images not only provoke adverse reactions in the public (Volkov, Harker & Harker, 2002a, 2005), which can range from a complaint (Amy-Ching, 2006; García-Muñoz & Martínez-García, 2009; Harker, 2000; Reports of The Observatorio de la Imagen de las Mujeres, 2000-2009; Volkov, Harker & Harker, 2002b) to a boycott (Ford, LaTour & Middleton, 1999; Kerr et al., 2012; Lysonsky & Pollay, 1990), especially amongst women (Jones & Reid, 2010). On a government level, the use of certain stereotypes can also provoke regulatory measures being adopted (Balaguer, 2008, 2010; Boddewyn, 1985, 1991; Salvador, 2008).

In line with this trend, without constraining freedom of expression, the interest of local and national governments in guaranteeing the rights of people has had consequences for advertising (Balaguer, 2008) as it is considered that the media, communications and advertising representations act as important socialising agents. In such a sense, in line with Ramos (2000: 28) the Court of Justice of the European Union establishes that, “publicity is a subject comprising freedom of expression and information. Consequently, we achieve the same guarantees, protection and limits of the latter.”

In Spain, in a regulatory context, the Advertising Bylaw (Law 61/ 11<sup>th</sup> June 1964) is the precedent of advertising law that was then repealed with the enforcement of the General Advertising Law 34/1988. According to Balaguer (2008), it has (in relation to the Bylaw) the particularity of setting judicial proceedings when it comes to resolving controversies which can arise in publicity activities.

The General Advertising Law, enacted in 1988, has been amended numerous times. In 2004, the contributions of the Comprehensive Protection Measures against Gender Violence Law were implemented, which at first would be considered as a major advance with regards to the definition of advertising being unlawful (Navarro-Beltra & Martín Llaguno, 2012a). The Article 3a of the General Advertising Law consider certain advertisements to be unlawful, those “that represent women in a degrading way, using in particular and directly their body, or parts of, as a mere object, unrelated to the product that it claims to promote, along with its image being associated with stereotypical behaviour...” (Official State Bulletin, BOE, no. 274 15<sup>th</sup> November 1988, Law 34/11<sup>th</sup> November 1988 General Advertising). It is understood that this type of publicity puts at risk people’s dignity and can contribute to causing gender violence. However, according to Rodríguez (quoted by Navarro-Beltra & Martín Llaguno, 2012a), as the stereotypes which can be seen as derogatory are ambiguously defined, the interpretation is free and can give way to various interpretations of the same representation.

In this regard, according to Navarro-Beltra and Martín Llaguno (2012a), the amendment of article 3a of the General Advertising Law is nothing new in relation to its previous wording that, with the enforcement of Law 29/30<sup>th</sup> December 2009, the Law in which the Legal Regime of Unlawful Competency and Publicity arises, for the development of consumer and user protection, does not manage to clarify discriminatory nor derogatory vocabulary (Navarro-Beltra & Martín Llaguno, 2012b).

For Balaguer (2008) the proposed regulation in article 3a (and in other articles of the General Advertising Law) is merely illustrative, as it is inadequate to say publicity that harms fundamental rights should be prohibited, an aspect that is already observed in the Constitution, but it does not define the limits and the way in which sanctions will be made. Pardo (2009) concedes with Balaguer’s assessment and observes that “even if this paragraph did not exist, the person’s dignity, values and rights recognised by the Spanish Constitution would still act as a limit to advertisement discourse and would be deserving of protection if they had undergone harm” therefore, this paragraph serves as a reminder (Pardo, 2009: 54).

Article 3a of the General Advertising Law, assumes two situations when it comes to complaints of unlawful publicity: that the representation of women in a derogatory way is more or less clear if the partial or complete use of the body or parts of it are used when it is unrelated to the promoted product, given that “physical evidence” would exist. But the situation becomes more complex, in relation to the use of stereotypical images, due to the resulting free interpretation that comes with the ambiguous definition of the notions of derogation and discrimination regarding stereotypes.

On a government judicial level, within the scope of complaints of unlawful publicity, another protagonist is the *Asociación para la Autorregulación de la Comunicación Comercial* (Association for Commercial Communication Self-Regulation), founded in 1995 and made up of advertising agencies, advertisers and the media amongst others. It checks the compliance

of advertising legislation, as one of its objectives, acting as an assessor for legal revision of campaigns, as well as offering recommendations, for example, about the representation of women.

Associates of *Autocontrol* have underwritten the Publicity Code of Conduct. Whilst it was not established for the specific reason of preventing sexist publicity, article 10 stipulates that, “publicity will not suggest circumstances of discrimination, whether it is race, nationality, religion, sex or sexual orientation, nor will it violate a person’s dignity. Above all, advertisements that are discriminatory or derogatory towards women will be avoided” (*Autocontrol*, 2013). The latest revision correlates with article 3a of the General Advertising Law, which similarly leaves the interpretation wide open for what is considered derogatory, denigrating or discriminatory. However, Pérez and Fernández (2009) point out that *Autocontrol* identifies three cases that would incorporate article 3a of the General Advertising Law with regards to stereotypes or stereotypical images:

- a) Representing women in an explicit or implicit way as being primarily responsible for child care
- b) Representing in a direct or hidden way the promoted product as something directly for women without the specificity being justified
- c) Declaring or suggesting that the promoted product is inadequate for women without such restriction being justified by the nature of the product.

Despite these specifications, Pérez and Fernández (2009), demonstrate that such crucial criteria set out by *Autocontrol* such as those quoted in the General Advertising Law and the Comprehensive Protection Measures against Gender Violence Law, do not define clearly the actual possibilities to eliminate the publication of sexist messages.

On the other hand, *Autocontrol* relies on *el Jurado de la Publicidad* (The Advertising Jury), an independent organisation that resolves complaints using the Publicity Code of Conduct and enforced legislation. Until 2004, before the amendment of article 3a of the General Advertising Law, the jury put into place resolutions, using a loose interpretation of what is considered unlawful within publicity messages, but in agreement with Salvador (2008), since the enforcement of the Comprehensive Protection Measures against Gender Violence Law, the jury has clearer criteria. In relation to the use of the female body, such advertisements that use the body to portray the message as the main element, and has a decorative use without carrying out an active role to do with the product or having a connection to the advertising message, are declared to be unlawful (Salvador, 2008). As seen, these criteria are referred to in the first part of the article but in relation to the use of stereotypical images, the criteria are more ambiguous and the Jury relies, perhaps due to the vagueness of article 3a, on the International Chamber of Commerce’s Advertising and Marketing Communication Practice Code, that states that commercial marketing needs to be produced with social responsibility (Salvador, 2008), with regards to the consideration of stereotypes that do not offer any relevancy.

However, the existence of a regulatory framework that attempts to safeguard the rights and a position of self-regulation within its own publicity industry does not mean that such rights are not violated. As a control mechanism, the additional sixth Provision of the Constitutional Law 1/28<sup>th</sup> December 2004, of the Comprehensive Protection Measures against Gender Violence Law lays out, as already mentioned, a few amendments of the General Advertising Law:

- a) Article 25 1 bis decrees that organisations able to intervene when cases of unlawful publicity arise are: *the Delegacion Especial del Gobierno contra la Violencia sobre la Mujer* (The Special Government Delegation to combat Violence against Women), *el Instituto de la Mujer* or its equivalent in the autonomous domain, legally recognised associations with the sole objective of defending women’s rights. It does not include profit-making legal associations

or holders of rights or legitimate interests. Out of these organisations we will analyse the *Instituto de la Mujer*, in particular, the *Observatorio de la Imagen de las Mujeres, OIM*.

b) The third provision, mentions one of the functions for which the OIM are responsible: putting into action “the act of suspension when an advertisement is considered unlawful, using derogatory or discriminatory use of the woman’s image” (Official State Bulletin, BOE, no. 313 29<sup>th</sup> December 2004, Constitutional Law 1/28<sup>th</sup> December 2004, Comprehensive Protection Measures against Gender Violence Law, additional sixth provision).

Before focusing our attention on the *Observatorio de la Imagen de las Mujeres*, it is important to mention that on an autonomous level, there are various organizations that carry out the monitoring of publicity content and the filing of complaints, amongst those having particular prominence are *el Instituto Andaluz de la Mujer* (The Andalusian Institute for Women) that established in 2003 *el Observatorio Andaluz de la Publicidad No Sexista* (The Andalusian Monitoring Center for Non Sexist Publicity) as well as *el Consejo Audiovisual de Andalucía* (The Andalusian Audiovisual Council) which conduct studies about publicity and sexism.

*The Instituto Andaluz de la Mujer* depends on the *Código Deontológico en Publicidad No Sexista* (Professional Ethics for Non-Sexist Publicity Code). The Code is “a collection of ethical rules, norms and principals, made mandatory for the government and accepted by those who voluntarily sign,” in addition to having the purpose “of defending the woman’s image in the widest possible sense, conforming to constitutional requirements of respecting human dignity and fundamental rights” (*Observatorio Andaluz de la Publicidad No Sexista*).

Some of the Code’s guidelines state that publicity should not promote models that consolidate gender roles as exclusive to each sex, set standards of feminine beauty, put women in inferior and dependent roles, present the female body as an imperfect object that needs to be corrected or represent it as an object and façade of the product. According to Pérez and Fernández (2009), the Professional Ethics in Non-Sexist Publicity Code is much more precise when it comes to determining some of the precepts that could clarify assumptions that would include the stereotypical images in which article 3a of the General Advertising Law alludes. However, its application is only adhered to in the autonomous Andalusian region and as already mentioned, only those who subscribe to it in a voluntary fashion are affected. In this regard, Balaguer (2008), reveals that the *Observatorio Andaluz de la Publicidad No Sexista* seeks the mediation between advertisers and complainants within legal possibilities already in place, under which they can take action.

On the other hand, *el Consejo Audiovisual de Cataluña* (the Audiovisual Council of Catalonia) is the organisation that receives complaints that arise under assumptions of discrimination because of birth, race, religion, opinion and sexual orientation in Catalonia. It also has in place the *Observatorio de las Mujeres en los Medios de Comunicación* (the Observatory of Women in the Media).

The Canaries Government has by its side the *Observatorio de Publicidad y Comunicación no sexista* (Observatory of Non-Sexist Advertising and Communication), intended as a service that collates and classifies complaints filed by the public, thereby contributing to active participation.

In Galicia, the *Comisión Asesora de Publicidad No Sexista* (Assessor Commission of Non Sexist Advertising) has been created as an organisation within the *Observatorio Gallego de Violencia de Género* (Galician Observatory of Gender Violence). Its objective as assessor, offers essential guidance to entities, associations and publicity agencies, as well as offering alternative approaches to eliminate sexism in publicity messages and dealing with sexist publicity complaints.

### 2.1. *Observatorio de la Imagen de las Mujeres*

The *Observatorio de la Imagen de las Mujeres*, OIM, is headed by the *el Instituto de la Mujer*, an autonomous organization attached to the Spanish government's Ministry of Health. It was created in 1994, previously known as the *Observatorio de la Publicidad Sexista* (Observatory of Sexist Advertising). It is responsible for "the analysis of the representation of women in advertising and in the media, seeing what are the most significant roles that are assigned to them and, in the case of those of which are sexist, carry out actions that will contribute to eliminating stereotypical images" (*Observatorio de la Imagen de las Mujeres*).

The OIM records complaints filed by individuals and legal organisations as well as carrying out its own monitoring. It acts against issuers of detected or reported messages, requests amendment or suspension of campaigns and circulates obtained data as a measure to fight against discriminatory behaviour (*Observatorio de la Imagen de las Mujeres*).

While article 3a of the General Advertising Law leaves open the interpretation of stereotypical images that are derogatory or discriminatory, the OIM defines its own interpretation in addition to the use of "the woman and her body reduced exclusively as a mere, passive sexual object." (*Observatorio de la Imagen de las Mujeres*). It determines that there are other criteria that qualify as sexist content. As such, within the analysis that the OIM carries out, it also has to take into account, amongst others, situations in relation to women, that:

- Normalize or justify behaviour, attitudes etc. that encourage forms of violence against women

- Put women in positions or places that denote subordination or inferiority
- Portray them as incompetent to assume responsibility
- Assign them the sole responsibility as caring for others
- Underestimate or ridicule activities or values attributed to women
- Show images of the female body or parts of it as means to capture audience

attention, without its presence being related to the advert's content or the advertised product

- Base a model of feminine beauty based on youth, elegance or bodily perfection that could cause harmful behaviour to someone's health (*Instituto de la Mujer, Observatorio de la Imagen de las Mujeres, Acciones, 2013*).

The fundamental legalities that shape the actions of the OIM in addition to the foundation of article 3 of the General Advertising Law (Law 34/88 11<sup>th</sup> November) are also sustained by Constitutional Law 1/28<sup>th</sup> December 2004, the Comprehensive Protection Measures against Gender Law, the Constitutional Law 3/22<sup>nd</sup> March 2007, the General Effective Equality of Women and Men Law 3/22<sup>nd</sup> March 2007 and the General Audio Visual Communication Law 7/31<sup>st</sup> March 2010.

In order that the reported content can be analysed and classified, it is necessary that it had been shown in Spanish territory. According to a form provided by the *Observatorio de la Imagen de las Mujeres*, the complaint can be filed via telephone, post or email.

## 3. State of the question

The relationship between advertising and sexism has been investigated using content analysis of adverts but also the complaints, as well as the actions that control organisations and the self-control publicity sector conducted on a state level have been studied.

### 3.1. *Studies about allegations of sexist advertising*

Complaints concerning adverts with sexist content have been analysed using different approaches. Some authors have concentrated on studies about audience members filing complaints (Amy-Chin, 2006; Crosier & Erdogan, 2010; Lawson, 1985), about analysis of the

discourse or establishing psychological profiles, analysing the behaviour of this type of consumer or defining the complaint procedure. Major input has been provided by the investigations of Volkov (2002a) and Harker (2002b, 2005) in which differences between those who file complaints and those who do not have been established. Complainants pay more attention to publicity content and are less susceptible to purchasing products due to being offended by advertisements which promote the product.

In the Spanish field, there is scope for analysis about the complaints' content (Bernad, 2010; Espín, Marín & Rodríguez, 2006; González, 2010; Ortiz & Del Arco, 2012; Salvador, 2008; Santiso, 2001) in which they pay particular attention to stereotypes considered to be sexist and stereotypical roles (the female as a sexual object, mother, wife and homemaker). However, within the representations of women's image, García-Muñoz and Martínez-García (2009) have revealed positive representations valued by audiences.

### 3.2. *Studies about organisations responsible for regulating advertising content*

Previous studies have analysed the role of state organisations and bodies that regulate and control the content of advertising messages and deal with complaints filed by the audience, although as already mentioned, a quantitative analysis about complaints has not been carried out.

Some studies have concentrated on the comparison of actions enforced by public organisations with regards to the regulatory framework (in the case of France: Penal Code, executive decree, etc.) (Boddewyn & Loubradou, 2011); whilst other studies have related strategies of specific products such as alcohol and the use of the female body, or even with products that have a more relevant link to the female body such as Wonderbra and the regulations adopted by organisations, such as Advertising Standards Authorities in the United Kingdom and Advertising Standards Board in Australia (Amy-Chinn, 2006; Jones, Hall & Munro, 2008).

In Ireland, the reactions of the National Women's Council, the Advertising Standards Authority of Ireland and the Institute of Advertising Practitioners in Ireland have been compared in light of the Equality Authority's demand, regarding studies about the representation of women in publicity and its influence on the inequality between men and women (Patterson, O'Malley & Story, 2009).

Using complaints put forward to the Australian Standards Council about sexism, discrimination and safety, Kerr and Moran (2002) examine the implications of self-regulation in the Asian-Pacific region.

The actions of the Norwegian Consumer Ombudsman, as one of the pioneer organizations in dealing with complaints about publicity with sexist content, is the subject of study for Sverdrup and Sto (1991).

Millan and Elliott (2004) analyse the role of public organizations as responsible for the protection of consumers' interests based on demands issued to the advertiser, the agency and Bulgarian National Television in the case of a controversial campaign (for a brand of beer) considered to be sexist.

On another note, Nelson y Paek (2008) observe that in the United States and Canada, those who file complaints to the National Advertising Division tend to be other advertisers rather than consumers.

#### 3.2.1. *Studies about the Observatorio de la Imagen de las Mujeres (OIM)*

Since 1994, the *Observatorio de la Imagen de las Mujeres* has carried out annual reports – although only reports that cover the period 2000 (with information about 1999) to 2009 are found online– detailing publicity and audio visual content complaints with sexist messages declared unlawful by individuals and organisations.

Since the publication of annual reports by the *Observatorio de la Imagen de las Mujeres*, various studies have been conducted, focusing the investigative emphasis on gender stereotypes, although they stand out, especially with regards to content analysis. In addition, aspects such as the requests to suspend or amend a publicity campaign issued by the OIM to different advertisers during the period of 1999–2009 (Ortiz & Del Arco, 2012) have been researched. Also, the legal treatment of the portrayal of women in advertising and the implications within the functioning of the *Observatorio de la Imagen de las Mujeres* have been studied (Bernad, 2010).

Another line of investigation has been the analysing of the functions of the *Observatorio de la Imagen de las Mujeres* in relation to other public organisations (Espín, Marín & Rodríguez, 2006) or establishing the legal framework and the main activities of the OIM, which determines certain parameters in which an advertisement may be considered sexist, most prominent being stereotypes and gender roles (González, 2010). In the context of the portrayal of women, Salvador (2008) refers to the *Observatorio de la Imagen de las Mujeres*, as a control organisation, whilst Santiso (2001) focuses on the main functions of the OIM.

#### 4. The current study

For this quantitative content analysis, we have used secondary sources, commonly used in studies, obtaining the following information from trusted and renowned sources, which in this case is the *Instituto de la Mujer* (Women's Institute). With regards to the information obtained in the 10 reports published online by the *Observatorio de la Imagen de las Mujeres* that provide information about complaints collated over 11 years (1999–2009), we have conducted a quantitative analysis which allows us to determine frequencies and percentages. Although the 1999 report was not published online in the OIM's section (On the *Institute de la Mujer's* website), the year's statistics have been included as a reference as they feature on the 2000 report. Consequently, there are 10 reports but 11 years have been analysed.

The 10 reports reveal a structure that changes every year (with exception to the three year period of 2004–2006 in which the criteria of the 2000 report is reused), this means consistent data cannot be collated as certain classifications do not appear to be replicated in all of the reports. The 2003 and 2009 reports differ substantially in relation to the other editions. In the 2003 edition, the OIM focuses on advertising directed at young boys and girls. Whilst the 2009 edition pays particular attention to job vacancies, however, this report still maintains the general structure of the summary of information that fulfils 5 of the 6 determined categories in the other years, as the report does not specify the nature of the submission of complaints. If the advertisement is considered to present women as sexual objects, harm the dignity of women or represent them in stereotypical roles. The 2003 data revealed in the 2004 report then establishes comparisons between years (which also can be observed in the 1999–2000 period), this allows the report to remedy the lack of data, although it is unable to do so for the years 2001 and 2000, periods which gather less information, as limited reports have been published. This situation has determined that some categories will be analysed over a period of 8 or 9 years that will alter the general result of the study.

##### 4.1. Objective

The objective of this study has been to conduct a quantitative analysis of the complaints, filed by individuals or organisations to the *Observatorio de la Imagen de las Mujeres (OIM) del Instituto de la Mujer*, according to reports published from 2000 until 2009. To determine the evolution of publicity considered being offensive by the public and classified as unlawful in the Spanish legal system.



#### 4.2. Method of approach

The method of approach consisted of exhaustive reviewing of annual reports that, according to data extracted, established common categories in all of the reports. The categories that have been defined are: 1) Number of complaints; 2) Reported campaigns; 3) Sex of complainant; 4) Criteria attributed to complaint (Female stereotype as a sexual object); and 5) Amendment, Suspension and Recommendation requests.

Whilst the categories were collated, certain data were integrated depending on certain characteristics which shared common themes. This occurred because uniform criteria has not been maintained throughout all the reports. Therefore, in relation to the media category, newspaper and magazine data have been combined to form a press category, data have been collated from billboards and street furniture to form the outdoor advertising category, given that in the 2007, 2008 and 2009 reports, this data have been condensed by the OIM and for other years, the subject has been reported in great detail.

#### 5. Results

The results of this study correspond with the analysis of the 1999–2009 period. The data have been dealt with in two ways:

a) For the categories: number of complaints, reported campaigns, the female stereotype as a sexual object and amendment or suspension requests, the results are presented in the distribution of simple absolute frequencies, in simple percentages and in annual variations. The results have been subdivided into two periods 1999–2004 and 2005–2009, with which we can try to observe if, from the enforcement of the Constitutional Law 1/28<sup>th</sup> December 2004, of the Comprehensive Protection Measures against Gender Violence Act, changes are seen in the audience reaction to advertising, with regards to the treatment of women, in addition, to finding out whether the OIM has a more decisive role since the enforcement of said Law “The action of suspension or amendment of publicity is modified, legitimising institutions and associations that work in favour of gender equality as its aim.” Official State Bulletin, no. 313, 29<sup>th</sup> December 2014, Constitutional Law 1/28<sup>th</sup> December 2004 of the Comprehensive Protection Measures against Gender Violence Act, Explanatory Memorandum).

b) When two or more variables arise (sex of complainant) a comparison by year to determine the percentage of each variable has been set. In these cases, sub-periods have also been put in place.

##### 5.1. Complaints received by the Observatorio de la Imagen de las Mujeres

During the period comprising of the years 1999–2009 5,815 complaints are filed in total, a yearly average of 528.68. 51.88% of the complaints correspond to the sub-period of 1999–2004 whilst in the sub-period of 2005–2009 the highest and lowest number of complaints is recorded not only in the sub-period, but also throughout the whole period (1999–2009). In 2007, the *Observatorio de la Imagen de las Mujeres* received 1,176 complaints (due to the audience reaction provoked by the Armani Junior advert. In contrast, 2008, the following year records the lowest number of with 317 complaints. This is particularly significant, as the highest and lowest percentage is recorded one year after the other, a decline of -73.04% in the annual variation (2007–2008). This is followed by the decrease of -52.23% recorded in 2003–2004. In contrast, the highest growth in the sub-period of 1999–2004 corresponds to the variation between 2000 and 2001 that sees a rise in complaints of 109.43% whilst the most significant upsurge for the 2005–2009 sub-period comprises of the 2006–2007 annual variation with a surge of 115.38% in complaints.

Conversely, taking into consideration that the 2005-2006 sub-period comprises 5 years, the complaint average is 559.60, higher than that of the 1999-2004 sub-period that comprises 6 years, registering an average of 502.83. Once again, 2007 is decisive in dictating the values of the 2005-2009 period being higher, however, the variation of complaints from one sub-period to the other is 7.25% which shows a slight fall in the submission of complaints throughout the analysed eleven year period.

**Table 1.** Filed complaints during 1999-2009 period

<b>Year</b>	<b>Complaints</b>	<b>%</b>	<b>Year by year variation</b>
1999	331	5.69	-
2000	339	5.83	2.41%
2001	710	12.21	109.43%
2002	579	9.96	-18.45%
2003	716	12.31	23.66%
2004	342	5.88	-52.23%
<b>1999-2004 Subtotal</b>	<b>3,017</b>	<b>51.88</b>	<b>Average = 502.83</b>
2005	400	6.88	16.95%
2006	546	9.39	36.50%
2007	1,176	20.22	115.38%
2008	317	5.45	-73.04%
2009	359	6.17	13.24%
<b>2005-2009 Subtotal</b>	<b>2,798</b>	<b>48.12</b>	<b>Average = 559.60</b>
<b>1999-2009 Period Total</b>	<b>5,815</b>	<b>100</b>	<b>Average = 528.63</b>

## 5.2. Reported Campaigns

1,811 campaigns were reported to the OIM during the period of 1999-2009 (table 2). 4 years comprise the highest percentages: 2001 (11.65%), 2002 (11.43%), 2005 (10.16%) and 2006 (11.43%), whilst 2008 and 2009 comprise the lowest percentages.

The variation between the first sub-period and the second is -27.68%, which implies a reduction in the number of reported campaigns during 2005-2009. It also is reflected in the averages 175.16 for the 1999-2004 sub-period and 152.00 for 2005-2009, this is considering that the former sub period comprises 6 years in comparison to the latter's 5 years. The total average for the whole period is 164.63.

Out of the most prominent variations, in a period of three consecutive years, 2002-2005, consecutive drops in the reported campaign percentage are registered.

**Table 2.** Advertising campaigns reported during 1999-2009

<b>Year</b>	<b>Reported Campaigns</b>	<b>%</b>	<b>Year by year variation</b>
1999	128	7.07	-
2000	157	8.67	22.66%
2001	211	11.65	34.39%
2002	207	11.43	-1.89%
2003	177	9.77	-14.49
2004	171	9.44	-3.38%
<b>1999-2004 Subtotal</b>	<b>1,051</b>	<b>58.03</b>	<b>Average = 175.16</b>
2005	184	10.16	7.60%
2006	207	11.43	12.5%
2007	131	7.23	-36.71%
2008	118	6.52	-9.92%
2009	120	6.63	1.64%
<b>2005-2009 Subtotal</b>	<b>760</b>	<b>41.97</b>	<b>Average = 152</b>
<b>1999-2009 Period total</b>	<b>1,811</b>	<b>100</b>	<b>Average= 164,63</b>

### 5.3. Criteria for filing complaint

The article 3 of the General Advertising Law makes particular reference to the consideration of unlawful publicity as one “that represents women in a degrading way, using in particular and directly their body, or parts of it, as a mere object, unrelated to the product that it claims to promote; along with its image being associated with stereotypical behaviour” (State Official Bulletin, no. 274, 15<sup>th</sup> November 1988, Law 34/ 11<sup>th</sup> November 1988, General Advertising, Article); regarding the criteria, individuals as well as organisations can file complaints about publicity and non-publicity content deemed to be offensive. In the 10 reports published by the OIM, the category which has particular relevance, and on which 9 out of the 11 years have focused their attention, is the presence of the female stereotype as a sexual object. It does not mean that other criteria go unreported (women’s status, violence, domestic and gender stereotypes, discrimination, sexist language, comparison between the sexes etc.); however they are not reported in such a systematic manner in all of the reports, in which such an in-depth analysis that covers several years cannot be collected in the same sense. Table 3 only accounts for the category of the female stereotype as a sexual object.

**Table 3.** Criteria for filing complaint: the female stereotype as a sexual object during 1999-2009

Year	Stereotype Sexual Object	%	Year by year variation
1999	-	-	-
2000	74	4.00	-
2001	554	29.95	648.64%
2002	243	13.14	-56.13%
2003	359	19.41	47.73%
2004	137	7.41	-61.83%
<b>1999-2004 Subtotal</b>	<b>1,367</b>	<b>73.89</b>	<b>Average = 273,40</b>
2005	123	6.65	-10.21%
2006	186	10.05	51.21%
2007	129	6.97	-30.64%
2008	45	2.43	-65.11%
2009	-	-	-
<b>2005-2009 Subtotal</b>	<b>483</b>	<b>26.11</b>	<b>Average = 120,75</b>
<b>1999-2009 Period Total</b>	<b>1,850</b>	<b>100</b>	<b>Average = 205.55</b>

In the years 1999 and 2009, beginning and ending the analysed period, data has not been collated about criteria attributed to the filed complaint; this also determines that the results only encompass 9 years.

In the sub-period analysis corresponding to 1999-2004, we observe that from 2000-2001 a significant increase of the number of complaints occurs from 74 to 554, leading to the variation from one year to the next as 648.64%. In the corresponding report, no reason is attributed to the campaign or campaigns that may have provoked the high number of complaints, although it is highlighted that the advert from the perfume brand Opium by Yves Saint Laurent triggered 52 complaints in 2001. 73.89% of complaints of the 1999-2009 period corresponds to the 1999-2004 section with an average of 273.40. The variation between the number of complaints at the start of the sub-period and the end of the same sub-period is 85.03%.

As for the 2005-2009 sub-period, the average is 120.75 and registers a lower number of complaints in comparison with the earlier sub-period, comprising 26.11% of the total complaints. In 2008, 45 complaints were filed accounting for 2.45%, which resulted in being the lowest percentage in the sub-period as well as the whole of the period (1999-2009).

In relation to the analysed period total, 1999-2009, without including 2 years of data, the OIM recorded 1,850 complaints that cited, as criteria, the presence of the female stereotype as a sexual object. In an annual variation, from 2000-2001 onwards, complaints record a tendency of decreasing, having reached its most notable point in 2007-2008 with a fall of -65.11%. However, with regards to complaints per year some deviations occur: 359 complaints in 2003, 186 in 2006, therefore the variations that occurred in those years increased (2003: 47.73% and 2006 51.21%). If we consider that 2000 and 2008 recorded 74 and 45 complaints respectively, the variation of the period is -39.18%, therefore a decline is proven. It is consequently seen reinforced additionally by the percentage variation that

occurs at the end of the period, between years 2006-2007 of -30.64% and -65.1% in 2007-2008.

The average of complaints filed under the criteria of the female stereotype as a sexual object in 1999-2009 is 205.55.

#### 5.4. Sex of individual complainants

In order to establish the pattern of the sex of individual complainants that have reported publicity and non-publicity content, we have not included three years of data: 2001, 2002 and 2003.

With regards to this aspect, we have observed that women have a higher number of complaints; in fact, all the annual percentages were above 82% with exception to 2007 falling to 63%. Consequently, it was the highest percentage of complaints filed by men with 36.89% in the analysed period, because the Armani Junior advertisement provoked reactions, changing the behaviour of male complainants. In 2006, 77 males filed complaints which increases to 398 in 2007, showing an rise of 416.88%. If we compare it with the following year, 2008, there were 44 male complainants, which in variation terms is shown in a decline of -88.94% regarding the former and latter year variation.

When accounting for the 1999-2009 period total, 77.83% of the complainants are women who filed a total of 2,644 complaints, averaging 330.50 annually. In contrast, men filed 753 complaints which translates as an average of 99.42.

**Table 4.** Complaints filed by women and men in 1999-2009

Year	Who complains		Yearly Total
	Women	Men	
1999	221 (86,33%)	35 (13,67%)	256 (100%)
2000	242 (84,07%)	39 (13,88%)	281 (100%)
2001	-	-	-
2002	-	-	-
2003	-	-	-
2004	259 (85,48%)	44 (14,52%)	342 (100%)
<b>1999-2004 Subtotal</b>	<b>722 (85,95%)</b>	<b>118 (14,05%)</b>	<b>840 (100%)</b>
2005	272 (82,18%)	59 (17,82%)	331 (100%)
2006	435 (84,96%)	77 (15,04%)	512 (100%)
2007	681 (69,11%)	398 (36,89%)	1.079 (100%)
2008	254 (85,23%)	44 (14,77%)	298 (100%)
2009	280 (83,09%)	57 (16,91%)	337 (100%)
<b>2005-2009 Subtotal</b>	<b>1.922 (75,17%)</b>	<b>635 (24,83%)</b>	<b>2.557 (100%)</b>
<b>Period Total 1999-2009</b>	<b>2.644 (77,83%)</b>	<b>753 (22,17%)</b>	<b>3.397 (100%)</b>

With regards to the sub-periods, during the 1999–2004 sub-period, the percentage of female complainants is 85.95% whilst in the 2005–2009 sub-period it is 75.17%.

### 5.5. Amendment, suspension or recommendation requests

In relation to the suspension, amendment or recommendation requests issued by the OIM, data corresponding with the years 1999 and 2003 have not been included; this determines that the analysis encompasses 9 years.

In the 1999–2004 sub-period, we observe that the average is 11.40% and in 2001 the highest percentage of amendment percentages occurred with 10.98%.

For the 2005–2009 sub-period, under the Constitutional Law 1/28<sup>th</sup> December 2004 of the Comprehensive Protection Measures against Gender Violence Act in place, the amendment, suspension or recommendation requests issued by the OIM gained new powers, according to the law “...the action of suspension or amendment is modified legitimising institutions and associations that work in favour of gender equality as its aim” Official State Bulletin, no. 313 29<sup>th</sup> December 2014, Constitutional Law 1/28<sup>th</sup> December 2004 of the Comprehensive Protection Measures against Gender Violence Act, Explanatory Memorandum, III). The request average is 21.40%. The accumulated percentage of the sub-period is 65.24%. Additionally, during the last three years the requests were above 10%. Consequently, the annual variation between 2006 and 2007 increases by 33.33% but the next interval (2007–2008) is 35% and finally 2008–2009 is 11.11%.

In total, during the studied period of 1999–2009, the OIM has sent 164 withdrawal, amendment and recommendation requests to advertisers and media about released content that translates as an average of 16.4 requests per year.

**Table 5.** Amendment, Suspension or Recommendation Requests issued by the OIM to advertisers during 1999–2009

Year	Amendment or Suspension	%	Year by Year Variation
1999	-	-	-
2000	15	9.15	-
2001	18	10.98	20%
2002	10	6.10	-44.44%
2003	-	-	-
2004	14	8.54	-
<b>1999-2004 Subtotal</b>	<b>57</b>	<b>34.76</b>	<b>Average = 11.40</b>
2005	15	9,15	7,14%
2006	15	9,15	0
2007	20	12,20	33,33%
2008	27	16,46	35%
2009	30	18,29	11,11%
<b>2005-2009 Subtotal</b>	<b>107</b>	<b>65.24</b>	<b>Average = 21,40</b>

## 6. Discussion and Conclusions

The adopted measures by the state to guarantee the right of a person’s image and dignity, along with the high involvement of the public and their reactions concerning the portrayal

of women, in particular, but also of girls and boys, have questioned freedom of expression in the publicity domain. This has determined that some content, which permits the existence of sexist stereotypes, is rejected and in concrete cases, reported to state organizations.

With regards to this context, the actions put in place by the *Observatorio de la Imagen de las Mujeres del Instituto de la Mujer*, respond to a more vigilant attitude on behalf of the Spanish state that has established the regulatory framework in which articles of the General Advertising Law, the Comprehensive Protection Measures against Gender Violence Law and the Law for Effective Gender Equality are combined, as well as legislation of autonomous regions. Along with state measures, the advertising sector has joined efforts with a self-regulation system, and ethics and sanctions codes have been added. The combination of laws attempts to answer social demands of citizens –conscious of their rights– who assume a protagonist role through a mechanism such as complaint.

As stated previously, the situation of unlawful advertising complaints under the amendments of article 3a of the General Advertising Law principally from 2004, reviews two relevant aspects:

*a) The use of the female body*

With the partial or direct usage of the body or parts of it as a unrelated lure to the promoted product, the representation of women in a derogatory or discriminatory way, determines that one of the tensions in the relationship between advertising and the treatment of the female image, is more offensive for women than for men. A situation that coincides with preliminary studies carried out by Christy, 2006; Dianoux & Linhart, 2010; LaTour, 1990; Lysonsky & Pollay, 1990; Orth & Holancova, 2002; Rossi & Rossi, 1985.

Women's attitude to a theme, which is often sensitive to broach for the female collective, as is the controlling of their portrayal, determines that they file the highest percentage of complaints, as over 80% of complainants are women throughout almost all of the analysed period. However, because not all of the data from the 1999–2004 period have been collated, it has not been possible to establish specifically if significant changes have occurred with regards to the amendment of the General Advertising Law after the enforcement of the Comprehensive Protection Measures against Gender Violence Act. Despite this, the liberal use of the female body is still considered as a sign of discrimination towards women, as it continues to be one of the main reasons that drive complainants, as can be observed by comparing the two sub-periods.

On the other hand, among the OIM's functions is to establish the criteria for the complaints. In the reports, allegations due to the use of the female stereotype as a sexual object are analysed to a significant extent. The body and nudity serve as a free commodity without any consideration to the fact that it draws attention to denigration and confining women to a passive role, as well as negative manifestations through language, attitudes and symbolic representation. The emphasis on the identification of these stereotypes is set because the legal system understands that these rights are violated and from the point of view of the OIM, as a controlling body, it is interpreted that its use is a way of provoking and maintaining inequalities between women and men.

By the number of complaints throughout all of the analysed period, it can be inferred that the use of the female stereotype as a sexual object has gradually stopped being a recurring theme in Spanish advertising. The number of complaints has decreased from 554 complaints in 2001 to 45 complaints in 2008 (with a significant increase in 2003: 359 complaints). Although it should not be overlooked that the OIM received 1,850 complaints throughout the analysed period (1999–2009) i.e. 34% of complaints were provoked by the alleged use of the woman as a sexual object, which annually on average resulted in 225 complaints if we take into account the total of the analysed period.

This fact determines that while at the end of the period the number of complaints due to the liberal use of the female body as a commodity has declined and lost momentum. Navarro-Beltra & Martín Llaguno (2012a) observe in their analysis on adverts shown in the El Sol festival; however, in agreement with the audience's perception, the use of female stereotype as a sexual object is still prominent in Spanish publicity discourse but less so than if the sub-period 1999–2004 is compared with that of 2005–2009. In this context, it can be inferred that legislation as well as measures put in place by the publicity sector itself, regarding the self-regulation system, has contributed to this decline.

Since the enforcement of the amendment of article 3a of the General Advertising Law, based on the stipulation of the Comprehensive Protection Measures against Gender Violence Act, it has been made evident that the category of the unrelated use of the female body to the promoted product represents significant change when it comes to complaints. The development of which can be seen with regards to results obtained in the annual variations and by sub-period, by the number of complaints received until 2004 and from that date onwards until 2009.

#### *b) Stereotypical Images*

The lack of clarification about the aspects that encompass stereotypical images considered discriminatory or derogatory leaves the possibility that complaints about diverse criteria may or may not entail said categories. Thus, by not being clearly defined or classified what is understood to be derogation or discrimination, the spectrum is consequently vague and uncertain. 66% of the remaining complaints that are not classified by the alleged use of the female body as a commodity or the female stereotype as a sexual object are grouped into defined categories by the OIM as the impairment of women's status, gender and domestic stereotypes, sexist language, discrimination or comparison between sexes, amongst others.

The *Observatorio* reports in detailed fashion principally about the complaints in the first part of the article 3a text of the General Advertising Law, making particular reference to the use of the female body as an advertising decoy. Other circumstances provoke categorical reaction from audiences, within the spectrum opened up from the second part of the aforementioned article (the reference to the use of stereotypical images considered to be derogatory or discriminatory). In this context, the advert of Armani Junior triggered 741 complaints in 2007, 63% of that year's complaints focused on one sole advertiser, which raised the recorded volume during the analysed period in addition to increasing the average total of complaints for each year. The report that is closest to this figure is that of 2003 in which 177 campaigns (from different advertisers) provoked 710 complaints. It is worth mentioning that the movement against the Armani Junior advert was driven by the *Hazte Oír* (Make Yourself Heard) group, however, the complaints were made individually. Furthermore, the Armani Junior advertisement caused the highest participation of male complainants throughout the analysed period.

The factor that triggers an unusual occurrence in 2007 has to be, among other factors, attributed to the fact that the Armani Junior advert uses young female models. The advert "served as an allusion to child exploitation for sexual tourism, evident in the Eastern characteristics of the girl models as well as the use of clothing and make up" (*Observatorio de la Imagen de las Mujeres, 2007: 13*). As the advert used factors such as sexism and objectification, previous studies have already shown (Boddewyn & Kunz, 1991; Prendergast, Ho & Phau, 2002) that the audience consider advertising to be more offensive, if it uses the presence of boys and girls involved in sensual activities (Beard, 2008).

Although the portrayal of children is not particularly referred to in the wording of article 3a of the General Advertising Law, according to that stipulated in the Comprehensive



Protection Measures against Gender Violence Act, examples such as Armani Junior show that there are various and varied criteria that can offend the audience.

On the other hand, despite the tendency of using the female stereotype as a sexual object is being used less frequently, it does not mean that sexist messages do not appear. In fact, complaints due to other discriminatory criteria continue to rise. In this sense, the enforcement of the Comprehensive Protection Measures against Gender Violence Act does not represent a significant advance when it comes to the disbandment of sexism in general in advertising.

In conclusion, the *Observatorio de la Imagen de las Mujeres* reports highlight that:

- The Spanish state has a legal framework in which protection mechanisms, guarantee of rights and control bodies in terms of portrayal and dignity are determined. In such a sense, although important advances have been made, the legislation still needs developing, because, as Balaguer (2008) and Pardo (2009) state, article 3a of the General Advertising Law may have a merely illustrative character in not making clear the cases of impairment when it comes to the representation of women in publicity advertisements.

- While changes in the behaviour of complaints have been observed since the enforcement of the Comprehensive Protection Measures against Gender Violence Act, these have not been significant. However, they pave the way for better operationalization of the concepts that are conceived in the cases of stereotypical images that can be deemed derogatory or discriminatory. As currently worded, the article leaves open the possibility of a broad interpretation that may not always determine the true discriminatory aspect offending the audience and violate the right to image and personal dignity, depends largely on how to conceive what is considered part of the stereotype.

- Women, in the event of complaint, demand the fulfilment of their rights when they are seen to be affected by publicity campaigns.

- By filing a complaint, the treatment of portrayal and gender identities, situations of inequality between women and men and a marked gender bias are made visible.

- Sexist expressions tend to decline but they are still present and are part of Spanish advertising. The female stereotype as a sexual object, perhaps the most visible in the use of the female body has lost momentum due to social demand, legislation in force and the self-regulatory measures of the publicity sector. However, this leaves room for other discriminatory forms, the representations of which are disguised and underestimated and therefore a more deceptive and just as damaging form of sexism. Consequently, the second part of the article 3a wording has to be much more specific.

- One striking aspect is that despite the number of reported campaigns totalling 1,691 throughout the eleven years of reports, the amendment, suspension or recommendation requests only come to 164. Although it is important to highlight that since the enactment of the Comprehensive Protection Measures against Gender Violence Law, the issuing of the suspension, amendment and recommendation requests has increased. Also, the OIM does not account for, in a detailed manner, the received request. This indicates that it remains vague as to what the reports entail whether advertisers accepted recommendations, amended adverts or stopped showing the adverts in question.

## 7. Research Limitations and future lines of investigation

By not having direct access to the information and as the reports had different structures, in which the data of certain categories have not been included, the analysis is limited. The study is unable to determine the evolution of the complaints classifying publicity as unlawful and have been reported by individuals and collectives in all aspects that were raised in relation to the 6 analysis categories.

According to the results obtained in this investigation, various questions arise that could lead to further studies in relation to unlawful advertising complaints, such as, for example:

- Questioning the effects of legislation in the decline of the use of the female stereotype as a sexual object in Spanish publicity.
- Finding out what motivates women to file complaints when publicity offends them in relation to the portrayal of women.
- Examining the effects of the use of amendment, suspension or recommendation requests in the shaping of a new kind of publicity in Spain.
- Investigating amongst male and female creative professionals the interferences of the use of article 3a of the General Advertising Law and the way in which it affects or does not affect creative processes.
- Exploring the role of legislation enforcement in the representation of boys and girls in advertisements targeted at adults.

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