

# Advertising genres and insertion modalities in Spanish television: regulation vs. reality

## Géneros y formas de inserción publicitaria en la televisión española: regulación vs. práctica

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### RESUMEN

The digitalization process has forced broadcasters across Europe to rethink their funding, and advertising strategies and regulation have acquired a main role in many markets. In Spain, one of the European countries with a higher advertising saturation index, the regulation (“*Ley 7/2010 General de la Comunicación Audiovisual del 31 de marzo*”) establishes the rights and duties of programmers with a clearly less restrictive legal framework than in other countries. Using content analysis, this research identifies advertising genres and insertion modalities in Spain main general-interest channels, studying trends and contrasting professional practices with the principles established by the current legislation. The results presented demonstrate the use of multiple genres and advertising insertion modalities and suggest the existence of a certain relationship between this variety and the willingness of operators to stay within the law by using innovative techniques.

**Keywords:** *advertising, television, Spain, genres, regulation.*

### ABSTRACT

*El proceso de digitalización ha forzado a las cadenas de toda Europa a reformular sus estrategias de financiación, y la publicidad y su regulación han adquirido un papel protagonista en muchos mercados. En España, uno de los países europeos con mayor índice de saturación publicitaria, la Ley 7/2010 General de la Comunicación Audiovisual del 31 de marzo establece los derechos y deberes de los programadores, proponiendo un marco legal manifiestamente más laxo que en otros países. Mediante un análisis de contenido, esta investigación identifica los géneros publicitarios y las modalidades de inserción presentes en las principales cadenas generalistas españolas, estudiando las tendencias y contrastando las prácticas profesionales con los principios que establece la normativa vigente. Los resultados evidencian el empleo de una amplia variedad de técnicas y sugieren la existencia de una determinada relación entre esta diversidad y la voluntad de los operadores de mantenerse dentro de la ley.*

**Palabras clave:** *publicidad, televisión, España, géneros, regulación.*

•How to cite this article:

García, N., Plana, G. y Ferrer, I. (2014). Géneros y formas de inserción publicitaria en la televisión española: regulación vs. práctica. *Cuadernos.info*, 34, 61-80. doi: 10.7764/cdi.34.579

## INTRODUCTION

The new century television has been forced to adapt to technological changes. The factors derived from digitalization and exploitation of multimedia resources have been determining in the creation of the new landscape and have modified the programmatic content of networks and their strategies of funding across Europe. To adapt the regulation to the new reality, the European Audiovisual Media Services Directive establishes a new framework for the sector's activity which, among other things, makes requirements to advertising activities more flexible, while its transposition into the member States creates new rules of the game.

Networks and programmers have sought the way of adapting to this context, in order to maintain and maximize their benefits, both in terms of audience and advertising spending. Particularly significant has been the recent emergence of a complex engineering of advertising content insertion, manifested in the exponential multiplication of the ways in which the brands, products and services appear on screen, as well as network's new modalities of self-promotion.

This article explores the phenomenon within the framework of the general-interest television channels in Spain, providing a clear vision of the genres and insertion modalities. In the same way, it identifies those cases in which integration practises are revealed to be at the limit or exceeding the current legislation and regulations, often by-passed and ignored by operators. In a last stage, this research compares the practices of public and private channels, identifying differences and contrasting forms of advertising insertion.

The results obtained demonstrate the significance of the Spanish case, which boasts the highest rate of advertising saturation in Europe, and underscores the presence of multiple genres and insertion modalities on screen. They also show programmers' loose ability to find new ways to obey the regulation by using innovative insertion techniques.

## ADVERTISING AND TELEVISION IN THE SPANISH CONTEXT

### BACKGROUND

The current media context has led to the search for new advertising practices (Farré & Fernández, 2005; Jurca, 2010; Arrazola, Hevia, P. Reinares & R. Reinares, 2013) trying to get the attention of content

and multiple-device consumers, practices beyond or integrated into the advertising and television content regulatory frameworks (Parson & Schumacher, 2012; Medina & An, 2012; Woods, 2008; Rotfeld, Abernethy & Parsons, 1990). In addition to conventional advertising methods, television advertising attempts to develop new strategies that restate themes as the advertising saturation (P. Reinares & E. Reinares, 2007), audiences' fragmentation (Sharp, Beal & Collins, 2009) and profitability to short and long term, without forgetting the new proposals in customization and optimization of advertising resources in the cross-media environment.

Much of the research on advertising and television has focused, quantitatively speaking, on the study of spots, both from the subject addressed in specific matters (Jones & Jernigan, 2010, Rausell et al. 2009), as in child protection issues (Medina & An, 2012; García-Muñoz, 1998; González, 2013; Garde, 2011). Other studies, such as the Medina and An (2012), have focused on the self-regulation of the advertising activity in Spain, analyzing the advertised products, the claimants, the media including the ads, the response of *Autocontrol* (Association for the Self-Regulation of Commercial Communication) and the advertiser, as well as the codes, laws and ethical principles that have been infringed. Research shows in conclusion that the activity of consumers and organizations of consumers towards the protection of audiences in Spain has proven to be more active in recent years than in countries like the United States, for example.

Likewise, other authors (Jiménez, Polo & Jódar, 2012; Delgado, Ferrer, Monclús & Plana, 2014; Moreno, 2007) have deepened in the specific case of the Spanish public television and its relationship with advertising, in specific advertising genres and in audience perception, especially since the adoption of the Law (8/2009), which establishes that funding of Spanish State broadcasters shall only be through public funds, definitely relinquishing the advertising revenues.

Much less numerous are the studies concerned with the prior knowledge about the practice and routine of genres, forms and advertising methods that are being developed locally, within specific programmatic contents, channels or devices within a given period of

time. This research seeks to contribute in this field, understanding that descriptive maps of certain realities in television are essential to determine to what extent conventional and new forms of advertising insertion modalities do coexist.

#### SPANISH REGULATORY FRAMEWORK

The advertising regulation has been analyzed both from local and national, State and even continental, approaches (Abernethy & Wicks, 2001). The first supranational directive *Televisión Sin Fronteras* (DTVSF 89/552/CE) of October 3, 1989, already contained provisions concerning the duration and nature of advertising contents, as well as its subsequent amendments (97/36/CE, 2004/C, 102/02 and 2007/65/CE). The new Audiovisual Communication Services Directive (2010/13/UE) of March 10, 2010, the current regulation, which came into effect on May 2010, also highlights the regulation of these elements, defining the limits and characteristics of advertising insertion in Europe.

Since 1989, considerable efforts have been made in order to reconcile the rights of the audience with those of the networks, as well as with the economic interests of advertisers. To limit the volume of advertising space, regulate the advertising of certain products harmful to health and, especially, to protect the rights of children have been among the priorities in the European regulatory framework, which have evolved along with the changes experienced by television. Regarding the concern about children's audiences, Spanish networks signed in 2004 the *Código de Autorregulación sobre Contenidos Televisivos e Infancia* (Code of Self-Regulation on Television Contents and Children), committing to implement measures of protection, unlike what happened with the 1993 document *Convenio sobre principios para la autorregulación de las cadenas de televisión en relación con determinados contenidos de su programación referidos a la protección de la infancia y la juventud* (Agreement on principles for self-regulation of television stations regarding certain programming content relating to the protection of children and youth) formulated by the Ministry of Education and Science, the Offices of Education of the Autonomous Communities and the networks (Muñoz Saldana & Mora-Figueroa Monfort, 2007).

The advent of the digital era in the last decade has changed the audiovisual landscape in Europe and has led to the rewriting and amending of the directives.

The last directive in audiovisual communication services of 2010 collects and regulates some new practices in this sense, including, for example, advertising genres not covered by previous directives, such as product placement. Regarding advertising insertions, the European directive limits the ad-rate to 20% of the total time per clock hour, and clarifies that "the Directive should give flexibility to broadcasters with regard to its insertion" (Dir. 2010/13/UE of the European Parliament and the Council, March 10, 2010, p. 85). It also establishes the need to safeguard the integrity of certain programs that require specific protection, by restricting advertising interruptions during films and outlawing the advertising of products like tobacco or certain drugs.

In this respect, the Audiovisual Communication Services Directive (2010/13/UE) should be understood as a legislation of minimum on which member States should have the power "to set more detailed or stricter rules" (Dir. 2010/13/UE of the European Parliament and of Council, March 10, 2010, p. 83). Unlike Spain, countries like the United Kingdom, France and Germany, have independent regulatory authorities with more restrictive and protectionist laws than the General Spanish Law 7/2010 on Audiovisual Communication of March 31, which remains as one of the most permissive.

As specifically noted in its preamble, the *Ley Orgánica General de Comunicación Audiovisual* (LOGCA 7/2010, of March 31) "is conceived as an instrument for the consumers' protection against the broadcasting of advertising messages in all its forms in terms of time and content, but also as a basic regulatory norm to prevent abuses and divergent interpretations that have led, in the past, to the opening of expedients and serious discrepancies when interpreting the European precepts". In addition, this law declares the will of the State to create the *Consejo Estatal de Medios Audiovisuales*, CEMA (State Council on Audiovisual Media) as "regulator and supervisor of the sector which shall exercise its powers under the principle of independence of the political and economic powers".

As of today, there is still no Regulatory State Council in Spain, thus being Spain one of the only members of the European Union that doesn't have an independent regulatory authority as the OFCOM (Office of Communications) in United Kingdom, AGCOM (*Autorità per le*

Table 1. General Organic Law 7/2010 of the Audiovisual Communication of March 31 (modification on June 5, 2013).

**Dispositions regarding the broadcasting time**

Article 13.2	"The time spent on advertising their own programs and products shall not exceed 5 minutes per clock hour".
Article 14.1	"Broadcast of 12 minutes of advertising per clock hour (...) will only be considered the set of advertising messages and telesales, excluding sponsorship and product placement (...) telesponsorship will be excluded from the calculations when its message lasts more than a commercial and the sets of telesponsorship does not exceed 36 minutes a day or 3 minutes per clock hour."
Article 14.2	"Both ads and TV-shopping must be clearly differentiated from programs through acoustic and optical mechanisms."
Article 14.3	"In the broadcast of infomercials, telesponsorship and, in general, those forms of advertising different than TV ads that, by the characteristics of their broadcast, could mislead the viewer about their advertising character, must overlap a permanent and clearly legible transparency with the indication 'advertisement'".
Article 15	"Networks have the right to broadcast TV-shopping programs if they have a minimum uninterrupted duration of 15 minutes."

**Dispositions regarding programming macro genres**

Article 14.4	"The transmission of television films (excluding series, serials and documentaries), feature films and news television programs may be interrupted once for each period of 30 minutes".
Article 14.4	"Sport events on television may only be interrupted by isolated spots when the event is stopped".
Article 14.4	Advertising messages will not be inserted in religious services.
Article 16.2	"They have the right to have sponsored programs, except in current information programs (article 16.1). The audience must be clearly informed of the sponsorship at the beginning of each resumption after the interruptions that occur or at the end of the program with the name, logo, or any symbol, product or service of the sponsor".

**Dispositions regarding the announced product**

Article 18.3	Prohibited advertising: cigarettes and tobacco products, alcoholic drinks with over 20 degrees of alcohol (drinks with less degrees cannot be broadcasted between 8.30PM and 6AM), "except that this advertising is an indivisible part of the acquisition of rights and of the production of the network" or unless "is directed to children, encourages the immoderate consumption or associates the consumption to the improvement of physical performance, social success or health".
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**Dispositions regarding minors**

Article 7.2	"During Kid's viewing time, the audiovisual media services providers may not insert commercials that promote body worship and rejection of self-appearance, such as slimming products, operations or aesthetic surgery that leads to social rejection because of the physical condition, or to success due to weight or aesthetic factors."
Article 14.4	"In the case of children's programs, interruption is possible once per each uninterrupted period of thirty minutes, if the program is longer than thirty minutes."

Source: CSO2009-12822.

*Garanzie nelle Comunicazioni*) in Italy or CSA (Conseil supérieur de l'audiovisuel) in France (Sopena Palomar, 2008, p. 120).

The absence of a regulating Council of the Spanish State is a key issue in the Spanish audiovisual field, while the proposal to create this organism already appeared in the election manifesto of the Socialist Party in 2004. But the process was never developed, and successive governments of the Popular Party were never favorable to the creation of the Council. Thus, audiovisual regulation in Spain is limited today to the enforcement of the General Organic Law of the Audiovisual Communication of March 31, including its last modification on June 5, 2013.

## METHODOLOGY

The results presented in this article come from the research project (CSO2009-12822) "Innovations in programming and advertising insertions in the European Generalist DTT", funded by the Ministry of Science and Innovation and carried out by a research team of the consolidated research group GRISS, [*Grup de Recerca in Imatge So i Síntesi / Research Group on Image Sound and Synthesis, Universitat Autònoma de Barcelona*] (ref. 2009SGR1013). The data, obtained through a quantitative content analysis technique, refer to television programming and the advertising messages included in it, excluding product placement.

The sample consists in the selection of the general-interest Spanish channels with higher audience rates existing prior to the introduction of digital terrestrial television (DTT): La1, La2, TV3, Antena 3 TV, Telecinco, Cuatro and La Sexta. Following the usual practice on television programming research, the data corresponds to a week of programming (from Monday to Sunday) of the 2011-2012 season between 7 AM and 1 AM. Regarding the classification of television content, we used our own typology, already tested in the European Audiovisual Observatory Euromonitor (Prado, Huertas & Perona, 1992; Prado & García, 2003; García-Muñoz & Larrègola 2010), in which the global identification of a program is based on three variables: macro genre, genre and micro genre. The study of advertising genres has allowed the advance of typological indicators and the approach to conventional and new advertising formats (P. Reinares & E. Reinares, 2011; Farré & Fernández, 2005).

The typology used for the identification of advertising genres and their insertion modalities corresponds to the categories developed and validated in the R&D + innovation projects funded by the Spanish State CSO2009-12822 and CSO2013. Advertising genres include: Accreditation, self-promotion, interactive, mention, sponsorship, asynchronous sponsorship, product placement, infomercial, overlay, spot, telesponsorship and TV-shopping. (Prado [IP], 2009). This article excludes product placement from the analysis, because an exhaustive study of this genre in relation to the selected sample would require a second monographic project, in which the presence of this advertising genre was examined exclusively and in depth. We also define different insertion modalities: break, isolated spot, split screen advertisement, split screen program, overlay, morphing, bumper, insert, credits and virtual advertising (Prado [IP], 2009). It should also be mentioned that the category "overlay" is classified at the same time as an advertising genre and as an insertion modality of these genres, as explained in table 2, where the definitions of each of the genres and insertions forms considered for the analysis are presented.

In addition, depending on the way of inclusion in the programmatic flow, we have differentiated between interstitial advertising, that is a part of the broadcast flow interrupting the supply of programmatic content in full programs or in a part of them (isolated spot, break, bumper, morphing), and overlapped advertising, which refers to the one that is synchronously overlapped to the broadcast flow without interrupting it (virtual advertising, insert, split screen advertisement, split screen program, overlay, credits).

The analyzed contents have been collected and recorded in GRISS' Laboratory with a device that allows a complete capture and storage of the original signal without data loss. The resultant programming database is available in a private network for the researchers of the group to proceed with its analysis and coding. The application "Monitor of television programming" has been implemented, allowing data entry on all analysis variables of programs and advertising with a high degree of automation, which promotes performance and minimizes human errors. Subsequently we designed and implemented a business intelligence system for the exploitation of the

Table 2. Advertising genres and insertion modalities

**Advertising genres**

Accreditation	Audiovisual communication referring to the collaboration of companies, brands or institutions in the production of the program. Explicitly named in the credits
Self-promotion	Piece in which a channel promote one or many programs of the same or others channels of the group, as well as new shows that are coming soon
Interactive	Any advertising form that contemplates interaction mechanisms
Mention	Advertising space in which, without interruption of the broadcasted program, products or services of a trade-mark are referenced. It can occur in the presence or not of the product announced
Sponsorship	Contribution made by and advertiser not linked to the supply of audiovisual services (public or private company, institution or brand) by financing a percentage of a program or a section of the program, in order to have presence or mention being identified as a sponsor
Asynchronous sponsorship	Sponsorship that appears within an advertising break that does not refer to the program it is associated to, but to another that will be broadcasted soon
Infomercial	Advertising piece with the same formal and stylistic elements of a television news report, in which the advertiser presents its product. It is longer than a spot, with a length of about 120 seconds
Overlay	Advertising message with static and/or dynamic graphic designs and real or synthetic still images and/or in motion placed in a portion of the screen
Spot	Traditional type of television advertising. Pre-recorded short piece of variable duration, ranging in length between 10 to 60 seconds, which is used to promote a wide variety of products or services
Telesponsorship	Brief advertising space made taking advantage of the set, the props and costumes of a program, which is played by the same actors in a series or presenters of a program that comes next or has just been broadcasted, but always outside the program
TV-shopping	Television space to promote the purchase of goods or services, often sold by other distribution channels, focused on the description of its features and functions and with information on the mechanism for its acquisition

**Insertion modalities**

Break	A technique that interrupts the programmatic flow through a set of commercials classified into a block. It can be inserted between different programs or two parts of the same program. It can have different lengths: short, regular or extra long
Isolated spot	A technique that interrupts the programmatic flow through the broadcasting of a single ad, which can go between programs or between two parts of the same program
Split screen (program)	Technique that divides the screen in a way that two different programmatic contents can be broadcasted at the same time: in one of the screens regular programming continues, while the other broadcasts advertising, either a single or several ads. The screen size and the intensity of the audio give prominence to the program and not to advertising
Split Screen (advertising)	Technique that divides the screen in such a way that two different programmatic contents are broadcasted at the same time: in one of the screens regular programming continues, while the other broadcasts advertising, either a single or several ads. The screen size and the intensity of the audio give prominence to the advertising and not to the program. The screen size and the intensity of the audio give prominence to advertising and not to the program
Overlay	Insertion technique consisting in superimposing advertising messages or self-promotions over the image of the program, which continues normally. The portion of the screen occupied by the overprinting is variable as well as the degree of transparency, the movement of the text or other graphics aspects such as typography, the font or color of the letters and the inclusion or not of the logo of the brand

Morphing	Visual effect in which an image is transformed into another without the changes being perceived clearly in the process. In the case of advertising it is typically used by merging the brand or product announced with the network's name
Bumper	Use of a short resource, typically of 10 seconds, identified as sponsorship, which is broadcasted immediately, before or after, the appearance of the program, or when returning to the program after an advertising break
Insert	Sections or parts of a program financially sponsored (by a trademark, company or institution) that visibly appear in an integrated form in the set, for example in a contest awards, or shown with different techniques in a clear way
Credit	Identification of the brand or product in the credits of the opening or closure of a program. They are used both in sponsorships and mentions
Virtual advertising	Advertising reference on the screen with a computer-generated image that fits naturally into the scene

Source: CSO2009-12822.

information collected in the application "Monitor of television programming" through the Oracle Business Intelligence tool.

Categories relating to television programming respond to the variables of the following macro genres: information, fiction, infoshow, game-show, sport, show, children, youth, educational and diverse. Advertising has been analysed according to variables related to the following topics: advertising genres, insertion design, insertion modality, product family, brand and specific product. The analytical code sheet of each unit of analysis includes data on beginning time, ending time, total duration, broadcasting time slot, network, ownership of the channel (public or private), etc. It is important to clarify that during the counting of broadcasted advertising time we have differentiated between advertising appearing overlapped with the content of the program and advertising that clearly interrupts its broadcast. This double information about advertising presence allows us a more detailed study of the growing modalities of advertising insertion in the television market.

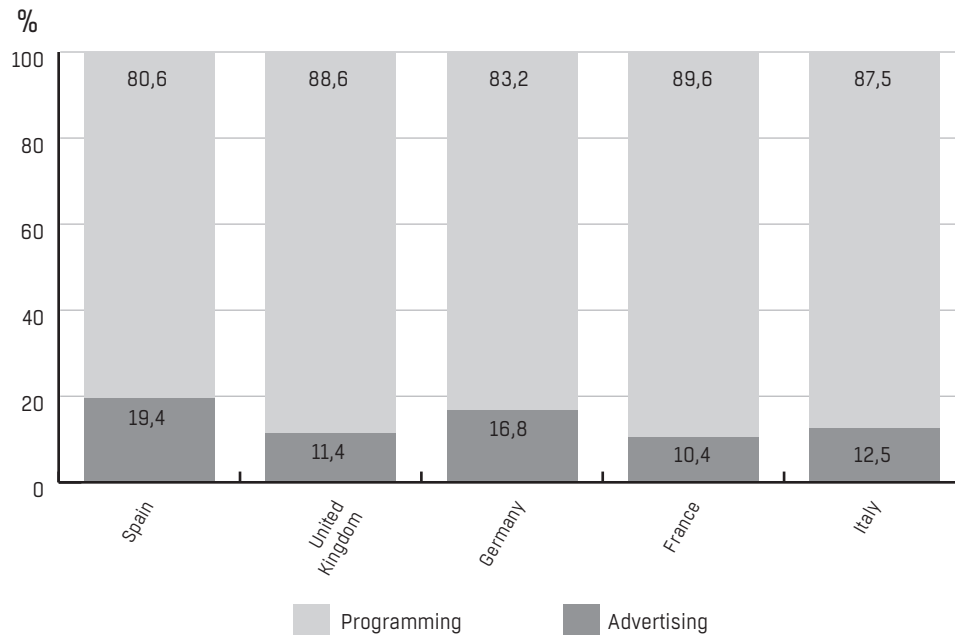
Content analysis is performed through a broadcast bank and a programming and advertising database that allows us to x-ray, relate, and contextualize data on advertising with the programmatic offer in Spain, and also with other European countries, such as Germany, France, United Kingdom and Italy. The Oracle Business Intelligence program has statistically treated the collected data. It is a software designed for the analysis and presentation of data, providing

an engine for calculation and aggregation that integrates relational data of multiple nature, non-structured, on-line Analytical Processing (OLAP) and other sources. The program allows us to generate tables and graphics through selection criteria and fully customizable filters, selecting logical tables, columns and dimensions within a subject area previously configured, fed through a database link to a SQL database<sup>1</sup>.

## RESULTS

The results explore the advertising genres and insertion modalities of advertising in Spanish general-interest television channels for the 2011-2012 season. The numeric computing, as well as the analysis of its characteristics, enables a specific view, which, compared with the regulations of the General law on Audiovisual Communication, accounts for how much and in what ways television operators avoid the law. In order to clearly understand the results, these are presented in three stages: First, we define the Spanish framework with general information about advertising saturation, genres and insertion methods; Second, we analyse each genre comparing the activity of the television channels with the current regulation; and finally, we briefly identify the differences between public (La 1 and La 2) and private channels (Antena 3, Telecinco, Cuatro and La Sexta), their funding and advertising insertion practises, including the case of the Catalan public

Chart 1. Advertising saturation index (2011-2012 season)



Fuente: Euromonitor and CSO2009-12822.

channel (TV3), of mixed financing. So, the objectives are the following:

- **Objective 1:** Mapping the presence of advertising genres and their insertion modalities in the Spanish general-interest channels.
- **Objective 2:** Pointing out those cases in which Spanish general-interest channels break laws, as well as those when they try to sort it by using the diversity of insertion modalities.
- **Objective 3:** Comparing the practices of public and private operators, identifying similarities and differences.

#### OVERVIEW: SATURATION, GENRES AND INSERTION MODALITIES

Spain is the country with the highest rate of advertising saturation in Europe, reaching 19.4 points. It is followed by Germany (16.8%), Italy (12.5%), the United Kingdom (11.4%) and France (10.4%), with half of the proportion of Spanish television advertising percentage. Thus, we find a very high advertising con-

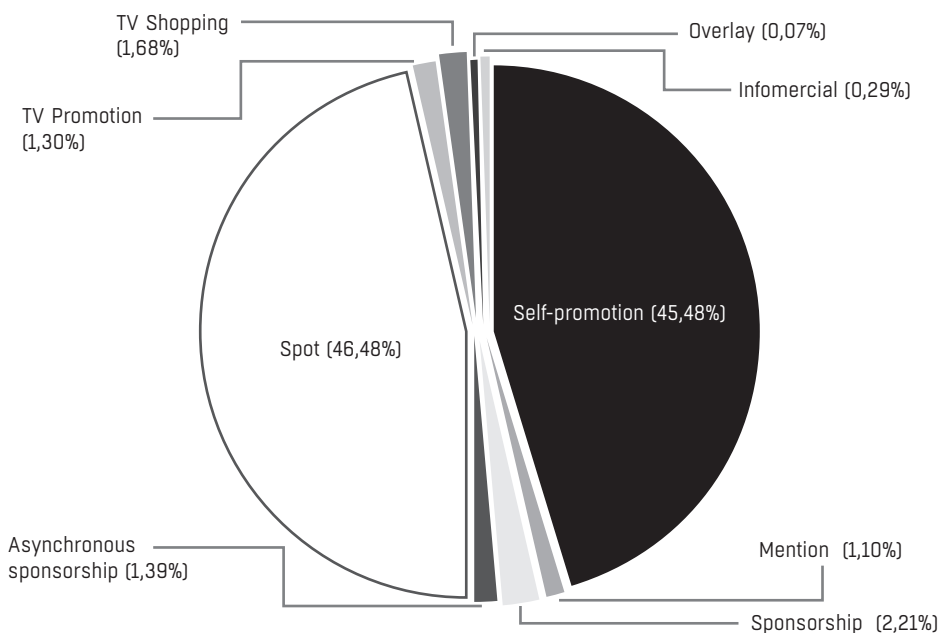
centration that has also acquired in recent years, very different forms and ways.

The spot and self-promotion are the advertising genres that stand out for their higher appearance on screen, but also remarkable is the unmistakable presence of the total of genres defined in the sample, although in different percentage proportions. In the general picture, the spot represents 46% of the advertising total and self-promotion is equivalent to 45%, although these percentages vary considerably if we analyze private channels (64% of spots and 26% of self-promotion) or public broadcasters (24% of spots and 72% of self-promotion). The rest of genres occupy much lower percentages, lower than 3%, although it is also important to underline the existence of multi-genre advertising as a feature of the advertising broadcast on televisions.

Regarding insertion modalities, 77% of the commercials are inserted in traditional commercial breaks, interrupting the broadcast programming, but it is also important to emphasize the overlapping advertising, mainly through overlay (15%) and split screen (2%). The results also reveal the presence of isolated spots (2%) and bumpers (2%) and show the little presence



Chart 2. Distribution of the different advertising genres (2011-2012 season)



Fuente: Euromonitor and CSO2009-12822.

of more sophisticated and specific insertion modalities, such as morphing or inserts with a percentage lower than 1%.

#### MONITORING THE RULES ACCORDING TO THE ADVERTISING GENRE

##### Self-promotion

Chart 2 reveals a high volume of self-promotions, which are integrated in the programmatic flow through different insertion modalities. In the overall of Spanish general-interest channels, self-promotions are part of commercial breaks in 54.5% of the cases and they are overlapped on 41% of the sample. Isolated spots (2,2%), split screen advertising (1,6%), bumper (0,6%), morphing (0,2%) and split screen program (0,03%) shape the current framework of self-promotion insertion, which stands out for a high level of overlapping, despite the prevalence of interstitial modalities.

As it can be seen in table 1, the General Law on Audiovisual Communication establishes that the operators “have the right to broadcast programs that provide information about programming or advertisings

of their own programs and accessory products directly derived from those programs” and it adds that “the time spent on advertising their own programs and products cannot exceed 5 minutes per clock hour” (Art. 13. 2 LOGCA 7/2010, March 31).

Table 3 shows that, while in some time slots in particular Spanish channels exceed the maximum set by the regulation, in average, they remain within the legal limits. Even so, it is necessary to consider the value of overlay as a modality of insertion. In this regard, La Sexta stands out with an average of 20 minutes per clock hour of overlapped presence on screen of its products, quadrupling in this way the limit established by the General Law on Audiovisual Communication. On the other hand, if we do not consider all those self-promotions that use overlay as an insertion modality, the average value descends to 1’20” per clock hour.

The analysis of the presence of each advertising genre broadcasted every hour indicates similar results in other private channels, as for example in Antena 3, with 21 minutes of self-promotion, because of the maintenance of a overlay on screen; Cuatro also

Table 3. Daily self-promotion.

	With overlay		Without overlay	
	SP minutes	SP/ hour average	SP minutes	SP/ hour average
Antena 3	0:43:06	0:02:24	0:40:07	0:02:14
Cuatro	0:28:03	0:01:34	0:24:08	0:01:20
La 1	0:47:03	0:02:37	0:35:12	0:01:57
La 2	0:46:49	0:02:36	0:42:11	0:02:21
La Sexta	6:06:21	0:20:21	0:24:08	0:01:20
Telecinco	0:28:27	0:01:35	0:27:42	0:01:32
TV3	0:31:02	0:01:43	0:30:17	0:01:41

Source: *Euromonitor and CSO2009-12822*

exceed the maximum time of self-promotion. But this bad practice is not exclusive of private television channels. In its commitment for a solely public funding and the elimination of commercials, Televisión Española also overuses self-promotions, especially in the morning hours, although it usually stays within legal limits.

The sample analysis shows a high disparity between television channels in regard to this regulatory compliance, but, in general, what stands out is the presence of overlapped self-promotions, which increase the accumulated values of the offered advertising. This result shows the importance of new forms of advertising insertion as mechanism to circumvent the prohibitions in a discreet way, because no channel exceeds the limit of 5 minutes per clock hour if we only consider the seconds of interstitial self-promotion. The use of overlays, on the other hand, enables operators to broadcast self-promotional messages and keep underhanded their on screen presence for much longer, simultaneously with the broadcasting of other programmatic content, and this circumstance is not contemplated in the legislation. La Sexta, for example, can reach 46 minutes of self-promotion in a clock hour, adding interstitial and overlapped self-promotion time.

### Spot

Spot is another predominant genre on Spanish television networks meaning 46% of the total advertising time (see chart 2), inserted almost exclusively through

breaks (96.6%), despite some cases of split screen advertising (2.35%) and isolated spot (0.63%).

Therefore, in this case, one of the most important legal provisions is the one referred to the duration of advertising breaks, mainly composed by spots. As recalled in table 1, the Spanish Law states that the networks “may exercise the right to broadcast advertising content through the broadcasting of 12 minutes of advertising per clock hour. For the computation of these 12 minutes will be only considered the set of advertising messages and Tv-shopping, excluding sponsorship and placement” (Art. 14 LOGCA 7/2010, March 31). In this case, the analysis faces an ambiguous reading of the legislation, since the wording does not clarify if self-promotion should be counted or not in the computation. On the one hand, article 13.2 establishes that self-promotions will not be considered advertising for the purposes of the law, while, later in the same article, it is stated that “its contents are subject to the obligations and prohibitions established with general character for commercial advertising” (Art. 13. 2 LOGCA 7/2010, March 31).

Unlike the previous case, however, where we have seen that monitoring of the legal impositions on the maximum time of self-promotion was uneven depending on the networks and was subject to the counting or not of overlays, violation of the law in this case is much more widespread. It must be taken into account that, due to the funding without advertising of the Spanish Television, the sample consists of the total of Spanish private networks and the Catalan regional television, TV3, of mixed financing.

Total counting of the advertising seconds per clock hour shows that Antena 3, Cuatro, Telecinco and La Sexta systematically violate the regulation, which sets a maximum of 12 minutes of advertising per hour, both in primetime and in the rest of the programming slots. Times are between 12 and 15 minutes, but gain disproportionate rates adding self-promotion to the total time, which, considering article 14.1, should be quantified additionally to the rest of advertising “for the calculation of these 12 minutes will be only considered the set of advertising messages and tv-shopping, excluding sponsorship and product placement” (Art. 14.1. LOGCA 7/2010, March 31).

If we look, for example, the clock hour of Spanish primetime (from 9 to 10PM), we observe that both Antena 3 and Tele 5, La Sexta and Cuatro program between 12 and 15 minutes of advertisements. Also, in daytime, we find similar values, which can reach up to 50 minutes per clock hour in the case of La Sexta, when adding to the breaks the cumulative time of overlapped advertising. In addition, it should be noted that, the news are included in this time slot, so much of that time is devoted to information and does not include commercials or other advertising messages.

Apart from the length of the commercial breaks, the General Law on Audiovisual Communication is also concerned about the integrity of programs, by adjusting the frequency in which certain content can be interrupted by advertising breaks, mainly spots. As seen in Table 1, movies (with the exception of series, serials and documentaries) and news programs may be interrupted every 30 minutes, which also applies to children’s television series lasting more than 15 minutes; broadcasting of sports events can only be interrupted by isolated spots when the event is stopped and advertising messages in church services are not allowed (Art. 14. 4 LOGCA 7/2010, March 31). In the same way, is remarkable the strict respect of the law in all cases analyzed, since movies are never interrupted at intervals lasting less than 30 minutes, there are no isolated spots in sports broadcasting and no commercials are inserted in church services. It should be noted that it barely exists children’s shows in the analysed general-interest channels, because all of the networks have a thematic channel with tv shows for kids.

### Sponsorship

Regarding the integrity of the news programs, the analysis becomes much more complex and we need to analyse the phenomenon in relation to the sponsorship, because it has structurally changed the organization of daily news slots. Article 16.2 of the General Law on Audiovisual Communication forbids the sponsorship of “news programs” (see Table 1), and the Spanish operators have developed different mechanisms to dodge the law and insert advertising messages within them. The most used method is the separation of the sports, financial, weather and environment sections, artificially defining these spaces as independent programs. This has allowed them to introduce sponsorships for these contents (basically through the “bumper” mode, in 83.5% of the cases), which were previously integrated in the newsreels, and even insert advertising breaks between the general information news and these thematic areas. Thus, Antena 3, Cuatro, La Sexta, Telecinco and TV3 have sponsored both the sports and the meteorology information of their primetime news. TV3, in addition, also makes financial information independent, as well as environmental news.

These strategies demonstrate the flexibility and vagueness of the Spanish regulation, which does not include these practices, as well as the willingness of the networks to introduce advertising contents in the evening news, which remain the pillars of the prime time. Therefore, this practice questions what is considered in article 14.4 of the General Law on Audiovisual Communication, which says that “advertising messages on television should respect the integrity of the program in which they are inserted and the units comprising it”. It is clear that sponsorships have drastically modified the classical structure of the news, in which sports and financial information traditionally appeared integrated with the rest of the content.

Beyond the evening news, there are other programs clearly classifiable as “informational daily news programs”, which are also associated to a sponsorship. Two of the most obvious examples are the programs *Espejo Público*, in Antena 3, and *30 minuts* in TV3. In both cases, they are weekly current news reports programs, well established and with extensive experience within their respective networks. In this regard, it is notable the lack of compliance with the law when defining programs subject to the provisions of this article that, once again, can have multiple interpretations.

### Infomercial, telesponsorship and TV-shopping

Regarding the broadcasting of other advertising genres, article 14.3 of the Spanish Law determines that infomercials, telesponsorships and other “forms of advertising different than TV ads that, by the characteristics of their broadcast, could mislead the viewer about their advertising character, must overlap a permanent and clearly legible transparency with the indication ‘advertisement’”. (Art. 14.4 LOGCA 7/2010, March 31). The studied sample attests to the follow-up of this regulation in a very large number of occasions, especially in telesponsorships, since it is complied with in 100% of the cases. Not so infomercials, which in none of the analyzed examples is marked with the “advertising” transparency.

Regarding TV-shopping, the law indicates that networks “have the right to broadcast TV-shopping programs if they have a minimum uninterrupted duration of 15 minutes”. (Art. 15 LOGCA 7/2010, March 31). Most of the TV-shopping content does not reach this minimum, barely running for 3 minutes. Only *Tele-tienda* (La Sexta) complies with the minimum established by the law.

Article 14.3 of the General Law on Audiovisual Communication, refers to “forms of advertising different to spots, that, by their characteristics could mislead the spectator about its advertising nature”. If we include TV-shopping in this category, the Spanish operators would be incurring in the violation of the law, while if we exclude it, the degree of violation of the law would be insignificant.

### Absence of “serious violations”

All the aforementioned are regulations excluded from what the law defines as “serious violations”, so it is important to talk about those prohibitions collected by the General Law on Audiovisual Communication strictly complied by all operators and where non-compliance is listed as serious. We speak of the explicit prohibition on advertising cigarettes and other products of tobacco; on television advertising of alcoholic beverages with a level higher than twenty degrees, as well as the advertising of alcoholic beverages of less graduation in protected time slots, never violated by Spanish networks.

### SIMILARITIES AND DIFFERENCES BETWEEN PUBLIC AND PRIVATE TELEVISION

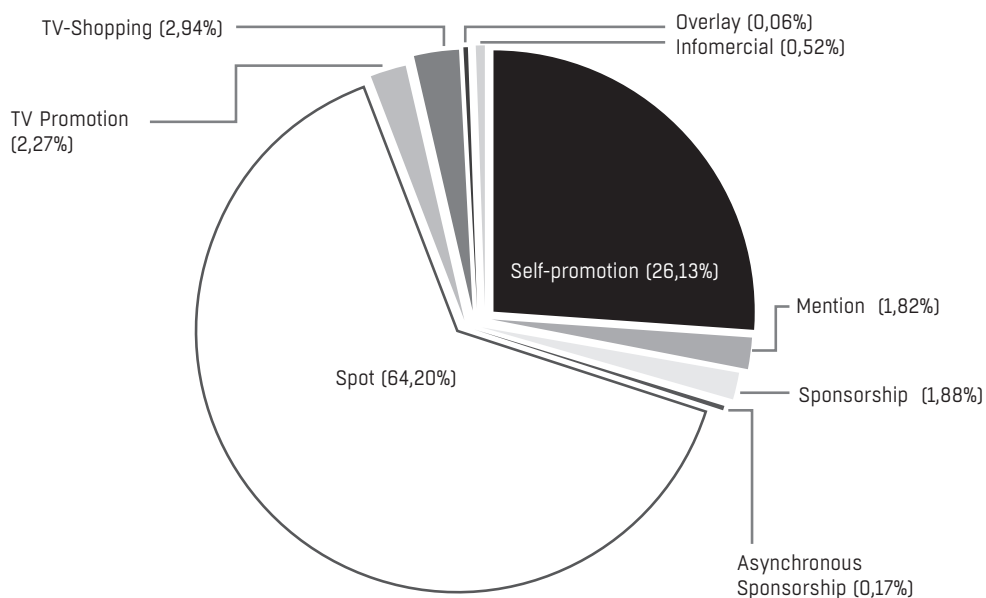
Until 2009, the Spanish public television had a mixed financing model in which revenues were obtained both from the State general budgets and from the benefits of advertising sales. In order to conform to the European law, a new regulation was promulgated in August 2009 (the Law 8/2009), according to which financing of Spanish State television channels was to be exclusively public, giving up advertising revenues (Delgado et al. 2014, p. 305). This factor is crucial when comparing genres and insertion modalities depending on the ownership of the networks, although the inclusion of the Catalan public broadcaster (TV3), of mixed funding, slightly balances the results.

The first essential difference refers to the use of the genres in networks of different ownership, considering that, article 7 of the financing Law 8/2009 of the *Corporación de Radio y Televisión Española* (CRTVE), states that self-promotion, institutional communication, cultural sponsorships and promotional campaigns of social or solidarity content for the benefit of entities and non-profit organizations are not considered “advertising”. Therefore, the results reveal that the spot is the most common genre in private channels, while self-promotions stand out in public channels. As an exception, we also notice a significant percentage of spots in the public channels because of the inclusion in the sample of TV3, with mixed funding.

The distribution of percentages by genres of Figure 3 is much more balanced on commercial television, which, apart from the spot and sponsorship, has relatively significant proportions of telesponsorship, TV-shopping, sponsorship, mention, etc. Figure 4 on the other hand shows how self-promotion stands out from the rest of genres in the context of public television, with a presence of 72%, followed by spots (24%) and sponsorship (which comes to 4% if the synchronous with the asynchronous are added up).

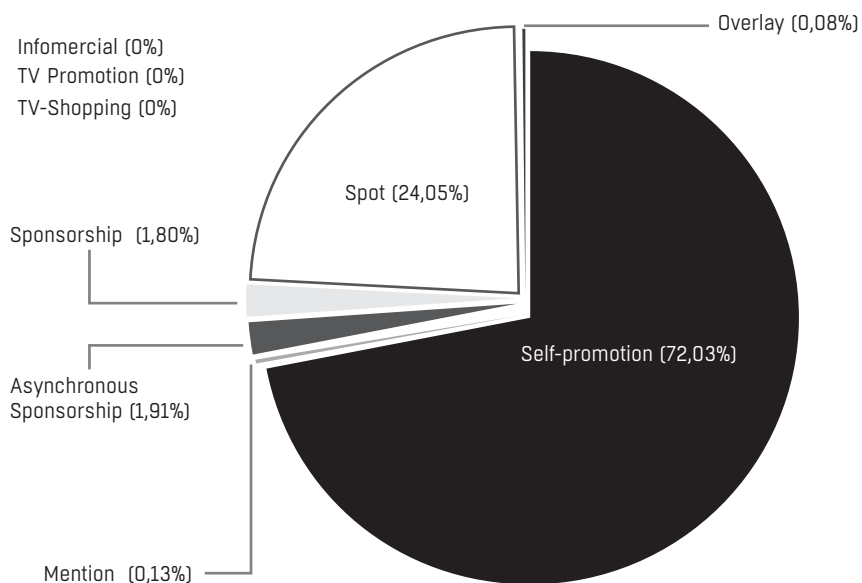
Regarding the insertion modalities, breaks (75.6%) and overlays (16.8%) stand out in private channels, but also in the public ones, where the break insertion is equivalent to 87% of the total of advertising modalities. This is due to the fact that self-promotion appears mainly in the form of break in the channels of State funding, while overlay is a much more recurrent modality for self-promoting contents in commercial networks.

Chart 3. Weight of the different advertising genres in private networks (2011-2012 season)



Source: Euromonitor and CSO2009-12822.

Figure 4. Weight of the different advertising genres in public networks (2011-2012 season)



Fuente: Euromonitor and CSO2009-12822.

In line with the regulation, it is interesting to compare the use of the spot in the public and private networks. Considering that, while public and private channels violate the established maximum of 12 minutes per clock hour, the Catalan television (the only public channel that can include them) always follows the established time limits. TV3 never exceeds the maximum time in the primetime and stays within the 12-minutes rate in every clock hour during every time slot. Even if we accumulated the time devoted to self-promotion, the Catalan regional television does not exceed in any case the 12 minutes maximum, for what it is important to remember that Catalonia has a regulating Council, the *Consell de l'Audiovisual de Catalunya* (CAC), which maintains a strict control of the rules compliance.

## DISCUSSION

The results exposed so far pose several reflections regarding the advertising offer in Spanish general-interest channels. A first observation warns that, of the five markets in the general map of the sample (France, Italy, United Kingdom, Germany and Spain), Spain is the country that tops the index of advertising saturation, with almost 20% of the total programming time devoted to commercial communication. Spanish television also stands out for a generic advertising offer, in a context in which the legislation is very permissive, with supremacy of the spot in private channels and self-promotion in the public ones.

The avoidance of legal restrictions by general-interest private networks in Spain varies depending on the advertising genre, the time slot and the channel. More than the numerical data, however, the role of the new insertion modalities is particularly significant here, since they have given the operators different ways to keep advertising on screen for long periods of time with overlapped forms, an issue that particularly affects self-promotions, often overlapped. This new advertising insertion engineering also includes more complex techniques, some of which have come to distort the program flow itself. We find advertising insertion in previously protected programs such as the evening news, the contents of which have been divided in order to sponsor them. Advertising has transformed, therefore, some structural aspects of television programming, sectioning news programs to introduce

spots and sponsorships, inserting commercials into previously ad-free slots and allowing the sponsorship of other informative programs. Branding strategies appears in multiple ways and reveal that the emergence of the different modalities of advertising is a highly planned phenomenon

Moreover, the new financing rules of public television networks has forced La1 and La2 to develop almost exclusively commercial communications of self-promotional nature, which has also led to the overuse of this genre. In this sense, it is necessary to think about the consequences of this new legislation on the editorial independence of the contents of the public Spanish channels that, free from the control of any independent regulatory body and the pressures of advertisers, is now only at the service and leadership of the Government. Indeed, Spain remains as one of the more permissive European countries in relation to the regulation of the audiovisual sector, as well as one of the less concerned with the monitoring of the compliance of the law. It should be noted that it is the only country of the sample that does not have an independent regulator. The experience of Catalonia, in this sense, highlights the apparent effectiveness of these independent agencies (the CAC), if we consider the results that position the Catalan public broadcaster as the only one that stays within the legal limits regarding advertising insertion.

In conclusion, the study of advertising in Spanish television shows a changing environment in which operators have generated new and sophisticated strategies to increase the presence of commercial communications on screen.

## FOOTNOTE

1. SQL, Structured Query Language, It is a standardized database language used to consult, modify or delete data in a database.

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## ANEXO

Tabla 4. Porcentaje de presencia de los géneros publicitarios sobre el total de la publicidad por cadenas [temporada 2011-2012]

Cadena	Género publicitario	Total de presencia en segundos	Peso del género publicitario sobre el total de la publicidad por canal
Antena 3	AUTOPROMOCIÓN	2586,	17,64
	MENCIÓN	197,	1,34
	PATROCINIO	449,	3,06
	PATROCINIO ASINCRÓNICO	90,	0,61
	SPOT	10585,	72,22
	TELEPROMOCIÓN	750,	5,12
<b>Antena 3 Total</b>		<b>14657,</b>	<b>100,00</b>
Cuatro	AUTOPROMOCIÓN	1683,	11,76
	MENCIÓN	150,	1,05
	PATROCINIO	244,	1,71
	SPOT	11940,	83,46
	TELEPROMOCIÓN	47,	0,33
	TELEVENTA	242,	1,69
<b>Cuatro Total</b>		<b>14306,</b>	<b>100,00</b>
La 1	AUTOPROMOCIÓN	2880,	96,35
	PATROCINIO	9,	0,30
	PATROCINIO ASINCRÓNICO	82,	2,74
	SPOT	18,	0,60
<b>La 1 Total</b>		<b>2989,</b>	<b>100,00</b>
La 2	AUTOPROMOCIÓN	2689,	95,49
	PATROCINIO	45,	1,60
	PATROCINIO ASINCRÓNICO	55,	1,95
	SPOT	27,	0,96
<b>La 2 Total</b>		<b>2816,</b>	<b>100,00</b>
La Sexta	AUTOPROMOCIÓN	21981,	62,86
	PATROCINIO	170,	0,49
	PATROCINIO ASINCRÓNICO	30,	0,09
	PUBLIRREPORTAJE	721,	2,06
	SPOT	9302,	26,60
	TELEVENTA	2764,	7,90
<b>La Sexta Total</b>		<b>34968,</b>	<b>100,00</b>

TV3	AUTOPROMOCIÓN	1862,	25,13
	MENCIÓN	29,	0,39
	PATROCINIO	216,	2,92
	PATROCINIO ASINCRÓNICO	10,	0,13
	SOBREIMPRESIÓN	18,	0,24
	SPOT	5273,	71,18
<b>TV3 Total</b>		<b>7408,</b>	<b>100,00</b>
Telecinco	AUTOPROMOCIÓN	1707,	12,26
	MENCIÓN	683,	4,91
	PATROCINIO	314,	2,26
	SOBREIMPRESIÓN	35,	0,25
	SPOT	10376,	74,53
	TELEPROMOCIÓN	504,	3,62
	TELEVENTA	303,	2,18
<b>Telecinco Total</b>		<b>13922,</b>	<b>100,00</b>
		<b>91066,</b>	<b>100,00</b>

Fuente: Euromonitor y CSO2009-12822.

Tabla 5. Tabla ejemplo del cálculo total de publicidad por hora de reloj. La Sexta, 26 de octubre de 2011, de 10 a 11 horas.

Título de la publicidad	Inicio	Fin	Género Publicitario
Buenagente y Patricia Conde	10:00:08	10:00:14	AP
The Killing	10:00:25	10:01:07	AP
The Killing	10:01:25	10:03:57	AP
The Killing	10:03:58	10:04:08	AP
Alpro Soja Ligera & Alpro Soja Ligera Chocolate Asturiana	10:04:08	10:04:28	SP
Alarma Securitas Direct	10:04:28	10:07:29	PR
Buenagente y Patricia Conde	10:07:59	10:08:32	AP
Trivago.es	10:08:32	10:08:52	SP
Juegos para móviles	10:08:52	10:09:24	SP
CEAC	10:09:24	10:09:44	SP
Alarma Securitas Direct	10:09:44	10:10:14	SP
Darkorbit	10:10:14	10:10:34	SP
Navy: Investigación criminal	10:10:34	10:10:44	AP
The Killing	10:11:03	10:14:33	AP
Liga BBVA At. Bilbao-At. Madrid	10:14:40	10:14:47	AP
The Killing	10:14:56	10:21:21	AP
Al rojo vivo	10:21:27	10:21:44	AP
The Killing	10:21:48	10:27:51	AP

The walking dead	10:28:04	10:28:09	AP
The Killing	10:28:25	10:31:11	AP
The Killing	10:31:31	10:34:27	AP
Liga BBVA At. Bilbao-At. Madrid	10:34:27	10:34:38	AP
11811	10:34:38	10:34:48	SP
Solognac	10:34:48	10:35:08	SP
Jazztel	10:35:08	10:35:28	SP
The Killing	10:35:28	10:36:06	AP
Queso cocina semicurado Président	10:36:06	10:36:16	SP
Fénix directo	10:38:16	10:38:26	SP
Trivago.es	10:38:26	10:38:46	SP
Melatomatine	10:38:46	10:39:00	SP
Elarmariodelatele.com	10:39:00	10:39:20	SP
Alarma Securitas Direct	10:39:20	10:39:50	SP
Alpro Soja Ligera	10:39:50	10:40:11	SP
Mini Babybel	10:40:11	10:40:21	SP
Idealist	10:40:21	10:40:41	SP
Ikea	10:40:41	10:41:11	SP
Buenagente y Patricia Conde	10:41:11	10:41:21	AP
The Killing	10:41:41	10:45:21	AP
Buenagente y Patricia Conde	10:45:28	10:45:34	AP
The Killing	10:45:43	10:53:59	AP
The Killing	10:54:24	11:01:06	AP
<b>Tiempo Total Publicidad</b>		<b>0:55:32</b>	

Fuente: Euromonitor y CSO2009-12822.