

# Just Within the Limits of the Law: Minors from Consumers of Advertising to Creators of Advertising in Spain

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**Abstract:** Children have gone from being consumers of advertising to being creators of advertising. This article provides an overview of the different lines of research on advertising and minors in Spain over the last 10 years and uses it as a basis to argue that the concept of the minor needs to be clarified and multiple regulations need to be unified, which should also be applied to new trends (such as kidgamers and YouTubers). This study highlights the need to find, on a global level, more specialized research lines that are more relevant to current realities, such as the YouTuber advertising that kids are exposed to today.

**Keywords:** adolescence research, advertising, early childhood research, legislation, self-regulation, YouTube, Spain

## Introduction and objectives

The purpose of this study is to offer an overview of current research trends focusing on advertising and minors and their relationship with Spanish regulations. The current presence on the Internet of new forms of advertising aimed at children allowed researchers to understand that it is necessary to analyze the research lines taking regulation as the central concept for classification.

The first objective is to show the main trends of these lines of research and answer questions such as:

- Is there a solid and homogeneous line of research on the topic of advertising/children?

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- Are these the most important social issues or could it be there are others to which attention is not being paid?

The second objective of this paper is to organize, classify, and systematize these lines of research in order to show the current panorama and guide future studies. The (sometimes unjustified) complexity of current regulations is such that the researchers' own starting point was difficult to decide.

Spain has been taken as a case for study because the country have a high concentration of globally successful influencers who are children. Several Spanish children are currently at the top of the Social Blade ranking<sup>1</sup>, ahead of even some of the most famous kid YouTubers from the United States. Examples for these Spanish kid Youtubers include „Las ratitas” and „MikelTube”.

In addition to these objectives, this paper reviews the Spanish regulations (not only legislation but also self-regulation codes); the “Advertising principles in Spanish regulations” (Table 1) and the “Prohibited advertising messages and regulations that govern them” (Table 2) are systematized and classified in order to obtain a complete picture of the relationship between research and the real problems faced by the older (television) and newer (Internet) advertising modes.

### **The child in the context of advertising**

When speaking of children and media, the traditional legal concern is to focus on how to protect children from the messages they receive; this is also the general direction that education has taken since its origins (Barbas, 2012) and is still being applied today (e.g., from a media literacy ecosystem approach) (Nupairoj, 2016). However, advertising today is much broader, given that children have gone from simple recipients (Lazo, 2005) to active participants. Thus, children can receive messages (advertising) or be advertising players. Although this is not a new development, what has changed, especially with regard to YouTube, is that children have become communicators (content creators) who also address their peers with messages that can often unquestionably be advertising (Jané, 2011), a phenomenon (that of the prosumer) that has made the leap from journalism (Berrocal, Campos-Domínguez, & Redondo, 2014; Vizcaíno-Laorga, Montes-Vozmediano, & De-la-Torre, 2017; Justel, Fernández-Planells, Victoria, & Lacasa, 2018) to social networks (Martínez-Rodríguez & Raya, 2015; López-Meri, 2018) and advertising. Therefore, on YouTube, children, encouraged by their parents, have become creators without them by themselves necessarily having the initiative to do so or it being a spontaneous act. This is a recent concern that is prompting officials in Spain to take notice: in fact, in 2018, the Interactive Advertising Bureau (IAB) published the first legal guide to focus on kid influencers (Martínez-Pastor, Vizcaíno-Laorga, Ortiz, & Riba, 2018). Minors are, therefore, recipients, actors, and communicators who must be taken into account in the legislation. For this reason, the limits of certain concepts such as “sufficiently mature,” “higher interest,” “responsibility to the minor,” and the definitions of a “minor,” as well as their rights and duties, must be considered from a legal perspective.

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<sup>1</sup> The first metrics of the Social Blade ranking were based on number of subscribers and numbers of views of the YouTube channels. Now it uses “a variety of metrics including average view counts and amount of ‘other channel’ widgets listed in.” The exact set of parameters used and how they are used is not public. The objective, therefore, is not only to quantify the number of visits or subscribers but also the influence of the channel: “The SB [Social Blade] ranking system aims to measure a channel’s influence” (Social Blade, Frequently Asked Questions: What is the SB Rank all about?,” <https://socialblade.com/youtube/help>)

*The concept of a child: a definition is necessary to set advertising limits*

Considerations of the concept of a child are varied, and international efforts to standardize it have been unable to limit it for practical advertising uses and purposes. The consequences that different approaches have for advertising are multiple (fundamentally when considering the child as a potential consumer or at least a minor who receives advertising messages). According to the Convention on the Rights of the Child (1989) “a child means every human being below the age of eighteen years” (Article 1); according to the Spanish Constitution: “Spaniards are of legal age when they turn eighteen years” (article 12), the same age stated in Organic Law 1/1996, of January 15, on the Legal Protection of Minors (Article 1). The limit is 18 years, but we cannot treat a child aged 17 the same way we treat a child who is five years old, because their maturity is different. However, we can categorize children according to the national legal framework (the Penal Code, for example) or the educational system (the educational structure and its corresponding classes by age). From the previous sources (Convention on the Rights of the Child, Spanish Constitution, Organic Law on the Legal Protection of Minors and Spanish Penal Code, Spanish and many other educational systems), broadly speaking and for the purposes of this paper, we can understand children to be minors aged under 12 years old (babies until three years old and toddlers until five years old); preadolescents (“*preadolescentes*” in Spanish) are those who are aged 12 years and younger than 14, and finally, adolescents (“*adolescentes*” in Spanish) are aged between 14 years and younger than 18 (who are not emancipated). For a more comprehensive discussion on the concept of the child and possible classifications see Martínez-Pastor, Serrano-Maíllo, Vizcaino-Laorga, and Nicolás Ojeda, 2017: 24-29). Each country will view these divisions slightly differently. Obviously, when determining children’s maturity and possible responsibility and identifying whether or not the child is autonomous enough to exercise their rights, this generic classification can only serve as support. That is, it is a tool to adjust, differentiate, and finally determine the passage from the concept of “child” or “minor” to a different category (“not minor”). As this article will demonstrate, communication has assumed some of these nuances and applied them to different environments (advertising, cinema, videogames, etc.) and to different products (toys, alcohol, or tobacco).

*The protection of the child in advertising: the child as a subject of the law*

Another issue to consider is whether children are entitled to rights. Although there seems to be some consensus—Cardona, referring to the 1989 Convention on the Rights of the Child, states that “children will go from being considered objects of protection, to subjects of rights” (Cardona, 2016: 39)—some authors, such as Sánchez-González (2006), maintain that it is necessary to be of legal age to enjoy those rights. Acebal Monfort, on the other hand, believes children are not only entitled to human rights, but also to personal, civil, and political freedom rights (Acebal, 2010), which implies granting them ownership of those rights as well as the ability to exercise them. Advertising seldom reflects on these quasi-philosophical postulates. Its world is more practical and uses materials directly prepared for the advertising context; it has no use for hypotheses that must be transferred to daily life (Martínez-Pastor et al., 2018). But researchers do need to know the different theoretical approaches to guide their decisions. Thus, the aforementioned opposing positions (children as subjects of law or as objects of protections until they reach adulthood) respond respectively:

1. The theory of interest or benefit, whose maximum exponent is MacCormick (1988), considers children as entitled to all rights, as ownership of those rights “exists from a basic need or a higher interest in favor of that subject” (Lozano, 2016: 4);

2. The theory of will or choice, represented by Hart (1982), which does not understand that children have any rights, as “they lack autonomy or an ability to act as a moral agent” (Lozano, 2016: 3).

There is a middle ground which recognizes that children can be holders of rights, but their ability to exercise them depends on the type of right and each individual’s maturity. This is similar to that postulated by Gil-Antón (2015), who stated that “Human rights are owned simply by being a person, you own those rights regardless of age; however, the exercising of the rights is completely different” (Gil-Antón, 2015: 19). For this reason, we need to know how the advertising industry and current research is approaching the issue of minor's rights, the age classifications they consider appropriate, and the types of rights assimilated to each group.

As this paper will outline, the discrepancies occur mainly in theoretical-legal issues, as in practice all the agents involved (parents-guardians, public administration, publicists, and industry) concur that children who work must be given special protection to ensure that children work within an appropriate environment, where their personality can develop. This, therefore, involves granting them special protection (Convention on the Rights of the Child) that is appropriate and adapted to their age, since this obligation of care and supervision (Martínez-García, 2016) must coexist and be balanced with the possibility that children exercise certain rights—which they own—and participate in making decisions about those issues that affect them, and are capable of understanding those decisions.

#### *The maturity of the child and their rights and responsibility as an advertising producer*

As a general rule, the more mature a child is, the greater autonomy to exercise rights they will be given; although this generally depends on age, it is subjective and should be determined on a case-by-case basis. The law does not give us a clear classification by age, only certain references. Thus, the Organic Law on the Legal Protection of Minors establishes that “maturity must be evaluated by specialized professionals... in any case, the minor is considered to be sufficiently mature when they turn 12 years old.” (article 9.2). Organic Law 5/2000, of January 12, regulating the criminal responsibility of minors establishes a range of 14-18 years old (article 1.1), and the Regulation implementing Organic Law 15/1999, of December 13, on personal data protection refers to the processing of data of children aged 14 years, with their consent. For minors under 14 years of age, “the consent of the parents or guardians will be required” (article 13.1). Thus, although the ideal approach would be “to observe the person in particular, their psychological and physical conditions as well as their personal circumstances, to verify or clarify the legal application of their specific case” (Rocha, 2014: 51), we can see that the law has resolved the question of maturity by appealing to age.

Indeed, exercising rights implies assuming responsibility for actions. In Spain, minors are criminally responsible from the age of 14. They are responsible for any action they carry out that is classified as an offense in the Criminal Code: against privacy, against honor, against intellectual property, etc. What they do not have is full civil responsibility, as their parents or legal guardians are jointly responsible and liable (article 1903 of the Civil Code). This obligation to repair the damage only ceases if the parent shows that they acted diligently and did everything possible to prevent the criminal act. This is also included in the Law on Legal Responsibility of Minors (article 61).

#### *Child first, YouTuber second: in the best interests of the child*

In any communicative environment (social networks, for example), especially in advertising, children can exercise rights that may be subordinated to the so-called best interests of the child.

This principle has two objectives: to ensure children's rights are protected and to guarantee their involvement –according to their maturity– in all matters that concern them. This means that any action or measure that concerns them (of whatever kind and regardless from whom it may come) must be governed by the principle of the “best interests of the child” (Fernández-González, 2017: 228): whenever there are several options, that which most benefits the child should be chosen, and if a legal provision can be interpreted in different ways, it will be done with the perspectives that best serve the interests of the minor (Organic Law 8/2015, of July 22, on Modification of the System for the Protection of Children and Adolescents). One difficulty that arises is the indeterminate nature of this principle: positive because it facilitates adapting each decision to each case and negative because its ambiguity can lead to a certain degree of arbitrariness (Martínez-Calvo, 2015: 201). The truth is that the principle of the best interests of the child “goes beyond that of the family and is on the level of a general informative principle for the current legal system” (Rocha, 2014: 54), and is therefore not only included in all regulations that refer to minors but is also the source for all others.

Another difficulty it poses “is establishing whether the best interests of the child are understood solely in the child's sense of well-being or implies that children have the right to participate in decisions about their lives” (Van Bueren, 1998: 16). We understand that this must be “considered fundamental in all actions and decisions that concern the child, both in a public and private context” (Convention on the Rights of the Child, 1989), such that children’s best interests will be prioritized in cases of conflict with other legitimate interests, if satisfying both is not possible. Thus, it acts as a limit to the exercise of their rights: even if the child has the right, for example, to privacy, their parents (or guardians) can intervene if they suspect that they are in danger (e.g., accessing their social networks if they believe a pedophile is stalking them). However, it must be applied proportionally.

### **Research into minors as consumers of advertising content**

Having now established the difficulties involved in defining the concept of a minor and their rights and obligations, we must next focus on the legal and regulatory limitations established in advertising in Spain regarding children and, based on the research carried out over the last 10 years, determine whether or not the advertising industry complies with them. This will give us an overview of not only what is currently being researched but also the usefulness of those laws. This in turn will influence the direction that future research should take, as possible niches of study will be detected.

Minors are entitled to the right to freedom of expression and the right to information (Convention on the Rights of the Child), which includes the freedoms to seek, receive, and disseminate information and ideas of any kind by any means, provided they are appropriate for their age. A child sitting in front of a screen receives advertising messages, and parents must ensure that they are appropriate for their age. There are legal limitations of a general nature and those that are specific to content, age, and sector, which is why we have decided to analyze advertising content governed by current regulations—both by the positive law and by self-regulation—as well as conduct a literature review on advertising message regulations.

#### *Studies on the legal limitations of a general nature (principles): the limits of advertising*

Advertising messages addressed to children must comply with a series of premises so that they do not confuse them (Pardo, Lázaro & De la Vega, 2012; Lema, 2007; Tato, 2014). Thus, advertising must: respect the law (principle of legality) be identified as advertising (principle of authenticity or honesty), clearly differentiated from entertainment content (principle of

identity), be loyal to its competitors so as not to confuse consumers (principle of loyalty), be true (principle of truthfulness) and respect the law and the values and rights recognised by the Constitution (Tato, 2014; Lema, 2007; Bel & Corredoira, 2003; De La Cuesta, 2002; Santaella, 2003). Obviously, the legal requirements regarding these premises must be adapted to the public the specific message is addressed.

Table 1. Advertising principles in Spanish regulations

Advertising principles	Regulatory standards		
Principle of authenticity or honesty	General Law on Advertising (article 9) "Advertisers must (...) unequivocally disclose the advertising nature of their advertisements"	Code of Advertising Conduct (article 13) "Advertising will be identifiable as such whatever its form or the medium used"	Ethical Code for Online Trust: "When advertising through electronic communications media the advertiser must be clearly identifiable through their company name or the brand being advertised, such that they are clearly identifiable through the company name or the brand being advertised in such a way that the public they are addressing will recognize them and can communicate with them without difficulties." (article. 4.)
Principle of identity	General Law on Advertising (article 9). The means of diffusion significantly set the limits for the messages transmitted within their informative function which are used as vehicles of publicity	Law on Unfair Competition (article 26) "Television advertising and telemarketing should be easily identifiable as such and be distinguished from editorial content"	Law on Audiovisual Communication (article 13) "Television advertising and telemarketing should be easily identifiable as such and be distinguished from editorial content"
Principle of loyalty	Law on Unfair Competition (article 20) "In relations with consumers and users, commercial practices are considered unfair when they are likely to influence consumers and users' economic behavior. These practices include comparative advertising which -in their factual context and considering all characteristics and circumstances- create confusion, and messages of risk of association with a competitor's goods or services, their trademarks, trade names or other distinctive marks."		
Principle of legality	Constitution, articles 14, 18 and 20, section 4.	General Law on Advertising: (article 3. A) "Advertising that offends the dignity of the person or violates the values and rights that are recognized to them is illegal."	Code of Advertising Conduct (article 11) "Advertising must necessarily respect the rights to honor, privacy and self-image."
Principle of truthfulness	General Law on Audiovisual Communication Advertising "shall not mislead or present falsities about the characteristics of the products, their safety or the capacity and skills children need to use them without causing harm to themselves or to third parties" (article 7.3).	Code of Advertising Conduct (article 14.1) "Advertising should not be misleading. Deceptive advertising is understood to be that which in any way misleads the public it is addressed to."	

Main authors that have studied these regulations: Tato Plaza, 2014; Lema Devesa, 2007; Santaella, 2003; Bel and Corredoira, 2003; De La Cuesta, 2002.

Source: Prepared by the authors.

*Studies into advertising regulations and minors*

Advertising seen by children from the media should favor their integration and growth and transmit messages that promote tolerance and equality, reject discrimination and violence, etc. Below we outline the main research lines, classified into the different advertising content perspectives concerning minors.

*Studies analyzing regulations*

Studies by Ramos, Piñeiro, and Caldevilla (2012) have analyzed regulations without focusing on a specific means of communication or specific content. Studies focusing on specific topics have been carried out by Del Moral (2005) (the legal regulation of advertising), Medina and Méndiz (2012) (advertising self-regulation and an in-depth analysis of deontological regulations regarding minors), and Ruiz San Román (2011) (an exclusive analysis of article 7 of Law 7/2010 on Audiovisual Communication). Muñoz-Saldaña and Gómez-Iglesias (2013), Morillas (2014), and Martínez-Pastor, Serrano-Maillo, Vizcaíno-Laorga, and Nicolás-Ojeda (2017) have carried out integrative studies analyzing both legal regulations and self-regulation of advertising and minors. The first study is a general reflection on the need for co-regulation and self-regulation, while the latter is the first work in Spain to research the positive law and self-regulation integrally—it includes all areas of industry, as well as the media—and has an analytical, reflective, and informative approach. Recently, the IAB published a legal guide centering on kid influencers (Ortiz et al., 2018), which focuses on children as advertising prosumers.

Conversely, there are studies that, without analyzing specific topics, do focus on a certain aspect of the regulations. For example, Martín-Llaguno and Navarro-Beltrá (2013) carried out a comparative analysis of advertising laws on gender violence and sexism in Argentina, Spain, the United States, and Mexico. García-Noblejas (2012) and Tato Plaza (2010) analyzed practices related to advertising incitements. The law states that advertising should not directly incite children to purchase a good or service by exploiting their inexperience or credulity or encouraging them to persuade their parents or guardians (Article 3.b of the General Budgetary Law (GBL) and article 7.3 of the General Law on Audiovisual Communication (GLAC)). Studies by Massaguer (2010) and Zubiri De Salinas (2011) highlight the unfair aggressive advertising practices that directly encourage children to purchase products, thus failing to comply with article 30 of the Law on Unfair Competition (see Table 2).

*Studies focusing on the media: from an interest in television to a focus on the Internet*

Studies into advertising and minors focused on specific media are abundant, especially in an audiovisual context. Reviews into regulations concern themselves with highlighting differences in the regulatory systems according to country. Comparative studies include one by Rodríguez-Campra García (2009), who reviewed the audiovisual advertising regulations of 12 European countries and the United States and identified three different categories regarding child protection. The United States was the most permissive country regarding advertising on television networks. However, all those countries have bodies that regulate, advise, and sanction non-compliance, and all agree that television advertising “should not harm minors morally or physically, nor should it directly encourage them to buy a product” (Rodríguez-Campra, 2009: 108). A study by Muñoz García (2009) systematically categorized the criteria for classifying advertising content for minors on television into different codes for Spain, France, England, the Netherlands, and the United States. The codes include content related to violence, pornography, terror, vulgar language, sexist and racist content, and content that

incites the “consumption of substances harmful to physical, mental or emotional development” (Muñoz García, 2009: 164). Teruel Benítez’s 2014 doctoral thesis analyzed the television-based campaigns (“Vuelta al cole” and “Navidad”) broadcast continuously from 1997 until 2015, in an ambitious, formal study that analyzes values and effects.

Conversely, general studies related to advertising and minors which focus on online media are scarce. In those that do exist, minors or advertising are looked at as part of larger projects. Castelló (2010) focused her studies on online regulation and self-regulation, but the issue of the minor is addressed only when digressing. Likewise, Rallo and Martínez-Martínez (2010) analyzed the regulation of social networks from all angles, but not from an exclusively advertising-minor perspective. Pérez-Bes (2010) studied social networks, and Sánchez-Valle and de Frutos (2010) analyzed interactive advertising strategies targeting minors.

The study by Pérez Díaz (2016) centers on the protection of minors' data on mobile devices and the Internet and on social networks as “information privacy.” It analyzes the regulations and the staff responsible for collecting and processing data, and it analyzes the legal issues of the phenomenon of sexting in relation to minors, placing particular emphasis on the protection of minors. Serrano-Maillo (2013), in turn, focused on social networks but purely with regard to the validity of consent, a very specialized point of view of minors and rights.

#### *Thematic studies on advertising and minors*

Other lines of research concentrate on certain content or products (rather than the medium itself), although they can be related (i.e., research into toys can focus on sexism and gender issues). Establishing a clear taxonomy is thus complex, such that aforementioned issues complicate the task of categorizing the current situation.

#### *Works on discriminatory content in advertising*

According to regulations, advertising targeting minors should never include discriminatory messages (regarding race, nationality, religion, sex, or sexual orientation), or that violate dignity (article 3.a of the GBL article 10 of the Code on Advertising Conduct, or CAC). Although any discriminatory messages are prohibited, advertising standards particularly take note of messages that discriminate against women (see also article 7.e of the General Law on Audiovisual Communication and Table 2). This is to prevent minors from viewing society differently from how it is in reality (Organic Law 1/2004, of December 28, Measures of Comprehensive Protection against Gender Violence).

Studies along these lines worth mentioning include the Andalusian Observatory on Non-Sexist Advertising (2015), which focused on sexist advertising in commercials and toy catalogues; that of the Basque Institute for Women (2014), which developed indicators to detect the presence of sexism in the advertisements for games and toys in accordance with the law on television, radio, printed and digital media, and specialized catalogues. Similarly, studies by Martínez-Pastor, Nicolás, and Salas (2013) analyzed television spots' degree of compliance with regulations on gender issues; those by Pérez-Ugena, Martínez-Pastor, and Salas (2011) identified whether advertising directed towards minors generated gender stereotypes, thus breaching regulations; and studies by Díaz-Campo and Fernández-Gómez (2017) analyzed stereotypes in toy advertising on Facebook.

#### *Risk advertising: studies into minors, violence, and dangerous situations*

The law addresses violence and advertising from multiple perspectives and studies even go further (e.g., Ragnedda and Ruiu (2010) analyzed the symbolic violence of music as a means

of persuasion). Advertising messages must not cause—or encourage their audience to cause others—physical or moral harm (article 28 of the CAC, article 7.3 of the GLAC and article 3b of the GBL). Advertisements can resort to neither danger nor fear “except when doing so in a context where the minor can deduce that it is safe” (article 9 of the Code on Advertising Conduct). Other issues in the same vein can be seen in Table 2.

The research line into television violence has a long tradition (Pérez-Ugena, Menor, & Salas, 2010). However, there are fewer studies dedicated specifically to advertising. In any case, regulations make it clear that advertising should not incite children to violence and cannot suggest that acting violently can be advantageous in any way (article 6 of the CAC).

In general, studies along these lines are extremely focused and fragmented, because they concentrate on either the medium or the perspective to be addressed. Licerias Ruiz (2014) mentions advertising only when digressing and alludes to it to refer to violent television content and its relation to advertising, but from a purely commercial perspective. Baladrón (2005) studied the ethical limits of violence in television advertising; Martínez-Pastor (2015) analyzed national and regional regulations on the advertising of video games and limits on the promotion of violent content. Garrido (2010) continued his previous lines of research (Garrido, 2004) and analyzed the trailers of a corpus of 23 Walt Disney animated films made between 1991 and 2008, reaching the conclusion that the desensitization to violence they may generate in minors could be harmful.

#### *Advertising, minors, and food*

There are many studies analyzing the influence advertising (on television and the internet) can exert on children's food preferences and eating habits. It is an international concern (Boylan & Whalen, 2015; Folkvord, Anschutz, Nederkoorn, Westerik, & Buijzen, 2014) and the results of comparative studies suggest conclusions similar to those of Spanish studies: advertising for unhealthy products targeting children is common practice and “more effective policies limiting children’s exposure to unhealthy product advertisements” should be developed (Morales et al., 2017: 221). These studies suggest that advertising exerts a direct, even impulsive, influence on children. In the case of Spain, the self-regulation of food advertising targeting minors has been addressed by León et al. (2018), Morales et al. (2017), Pérez-Ugena, Martínez-Pastor, and Perales (2011), and Martín-Llaguno, Fernández-Poyatos, and Ortiz-Moncada (2011). González-Díaz (2013) carried out a comparative study between the Spanish PAOS code, international codes and codes in other countries. León (2017) detected a greater breach of the revised PAOS code in 2012 compared to 2008. Fernández-Gómez and Díaz-Campo (2014) put forward an opposing perspective: they saw that brands involve themselves in promoting a healthy lifestyle in certain ways (overlays on the screen), although the marketing pitch is still based on incentives rather than on the nutritional qualities of the products.

#### *Research regarding advertising and physical appearance*

Advertisements should not generate expectations of success, love, friendship, triumph, etc., in children. Nor should they create false expectations or “overestimate the skill level or the age limit children need to enjoy or use their products” (article 28 CAC). Fostering an obsession with physical appearance “and the rejection of one’s own image through products such as slimming products, surgical interventions or aesthetic treatments that appeal to a social rejection of certain physical conditions, or success due to a certain weight or aesthetics” are prohibited (article 7 GLAC). Advertising should never incite minors to behave in ways that may be harmful to their health (article 29 of the Advertising Code of Conduct). Table 2 lists the complete restrictions.

Meléndez, Del Rosario, and Carrillo (2011 and 2016) studied advertising that contained messages of obsession with physical appearance (2011) and whether they included messages of sexual content that could harm the psychophysical development of minors (2016). An original approach was provided by Jiménez-Marín, García-Medina, and Bellido (2017), who studied the advertising of 18 children's fashion brands at the point of sale (through mannequins) in 50 establishments in five Spanish cities. The authors concluded that most brands “tend to generate unrealistic children-adult images,” which may result in a “potentially negative self-evaluation.” Medina and Méndiz (2012) created a guide entitled “Good Practices for Using Images of Minors in Advertising” after analyzing the deontology of advertising.

### *Toys and video games*

In order to not disappoint a child with regard to the product they would like to buy, it is important that advertising not mislead them when advertising the product's characteristics, according to age. Advertisements addressing children must clearly indicate the “real size, value, nature, durability, and performance of the advertised product” (article 28 CAC and article 7.3 GLAC). Further details can be seen in Table 2. These considerations apply especially to toys since they are the most common products targeting minors (Uribe, 2012). Martínez-Pastor, Gaona, and Nicolás (2017) specifically carried out research into advertising and toys which identified and analyzed European self-regulations and codes (including Spanish regulations). Martínez-Pastor and Nicolás (2015) and Martínez-Pastor, Pérez-Ugena, and Salas (2010) carried out case studies of non-compliance with current regulations, while the Audiovisual Council of Andalusia and the Andalusian Institute for Women (2015) conducted extensive studies analyzing, among other variables, colors and music in television and toy catalogues, especially in regard to sexist practices. Finally, an interesting study was carried out by García-Redondo and Hita (2011) that connected toy advertising with possible benefits or harm to “civic and healthy activities” such as sports or social relations.

For their part, video games also attract the attention of advertising-minor scholars, although they approach the association from indirect or basic perspectives. These studies are often carried out to define concepts and thus serve as a basis for further studies, such as that conducted by Martí-Parreño (2010) and Méndiz (2010), which defined the concept of *advergaming* and explored the possible relationships between initiation of the minor into advertising and brands through gaming, and Martínez-Pastor (2015), who offered an overview of the specific videogame regulations in Spain. Ramos-Serrano and Herrero-Diz (2015) addressed the phenomenon superficially when analyzing certain cases in which children become prescribers of videogames.

Martínez-Pastor, Salas, and Pérez-Ugena (2011) outlined the stereotypes present in videogame advertising. Marí Rodríguez (2012) analyzed the in-game advertising children aged 6-12 years are exposed to, while Rodríguez-Campra García (2010) studied the advertising effectiveness of videogames played by children aged 8-12 years, without focusing on the legal aspects. González-Díaz and Francés (2011) have studied *advergaming* in the context of the food sector and children.

*Others: tobacco, gambling, and the environment*

Other studies focus on the regulation of certain products that are harmful to health such as tobacco (Abad, 2006; Soto Mas & García-León, 2009; Vázquez, 2011) and alcohol (Tortosa-Salazar, 2010) from both national and community perspectives.

Concerning gambling advertising, a study by Buil, Solé-Moratilla, and García-Ruiz (2015) is worth mentioning, as it outlines how current regulations on this matter insufficiently protect the child. This study addresses the risk to minors of advertising for gambling because of its attractiveness, the easy access to platforms and the possibility of earning easy money. The investigation analyzes both Law 13/2011 on the Regulation of Gambling and the Code of Conduct on commercial communications of gaming activities to know if these regulations protect the minor. The results of this work show, on the one hand, that there is no legal obligation to inform through advertising of the possible risks derived from the practice of gambling and, on the other hand, that gambling companies have resorting, in their advertising strategies, to sports sponsorship, and this advertising activity goes against the child protection legislation. In conclusion, the research holds that the regulation is not enough, and online gambling can increase the risk of practice in minors and proposes developing ad hoc standards. The research by García-Ruiz, Buil, and Solé-Moratilla goes further, urging different social agents such as public authorities to take responsibility for developing responsible gambling policies and raising awareness in society. They press the industry to implement prevention and awareness mechanisms for safe and controlled gaming in order to protect minors.

Advertising should also avoid showing conduct that may encourage behaviors that are harmful to the environment (Article 12 CAC), but instead promote respect for the environment. This is only indirectly explored in certain studies, such as one carried out by the Association of Users of Communication (sf) entitled “Advertising and the Environment” and one by Martínez and Nicolás (2015) that analyzed advertisements for toys and possible offenses in their messages (including those related to the environment).

Table 2. Prohibited advertising messages and regulations that govern them.

CONTENT	REGULATION THAT GOVERNS IT			
<b>Discriminatory messages</b>	<b>General Law on Advertising</b> “The previous warning is against advertisements that present women vexatiously or discriminatorily, either by using their body or parts of their body as a mere object disconnected from the product being promoted; or their image associated with stereotypical behaviors that violate the foundations of our order, contributing to generating the violence referred to in Organic Law 1/2004, of December 28, on Comprehensive Protection Measures against Gender Violence” (article 3.a).	<b>General Law on Audiovisual Communication</b> “Messages must not incite behaviors that foster inequality between men and women” (article 7)	<b>Organic Law 1/2004, of December 28, on Comprehensive Protection Measures against Gender Violence</b> “Advertisements that present women vexatiously or discriminatorily, either by using their body or parts of their body as a mere object disconnected from the product being promoted; or their image associated with stereotypical behaviors that violate the foundations of our order, contributing to generating violence (...)” (sixth additional provision)	<b>Code of Advertising Conduct</b> “Advertising will not hint at circumstances of discrimination either because of race, nationality, religion, sex or sexual orientation, nor will it threaten people's dignity. In particular, those advertisements that may be humiliating or discriminatory to women will be avoided.” (art. 10)
<b>Direct incitement to purchase</b>	<b>General Law on Advertising</b> “Advertisements directed at minors that encourage them to purchase a product or a service, exploiting their inexperience or credulity, or those where children persuade their parents or guardians to purchase.” (article 3.b)	<b>General Law on Audiovisual Communication</b> “a) Messages must not directly incite minors to purchase or lease products or services by taking advantage of their inexperience or credulity. b) They should not directly encourage minors to persuade their parents or third parties to purchase advertised goods or services” (article 7.3. a and b)	<b>Unfair Competition Law</b> “It is considered disloyal (through its aggressiveness) to include in advertising a direct appeal to children to purchase products, use services or to convince their parents or other adults to contract any products or services advertised” (article 30)	<b>Code of Advertising Conduct</b> “Messages must not exploit children or adolescents' naivety, immaturity, inexperience or natural credulity or abuse their sense of loyalty.” (art. 28)
<b>Physical or moral damage</b>	<b>General Law on Advertising</b> “Messages should not mislead (...) children about the necessary skills they need to use the products being advertised without causing harm to themselves or to third parties” (article 3b)	<b>General Law on Audiovisual Communication</b> “Commercial communications on products specifically targeting minors (...) not mislead children about the necessary skills they need to use them without causing harm to themselves or to third parties” (article 7.3)	<b>Code of Advertising Conduct</b> “Advertising will not foster or encourage behaviors that harm the environment” (article 12)	
<b>Risk situations</b>	<b>General Law on Advertising</b> “Children cannot be shown to be in dangerous situations, without a justified reason” (article 3b)	<b>General Law on Audiovisual Communication</b> “Commercial communications must not cause moral or physical harm to minors” (article 7.3.)	<b>Code of Advertising Conduct</b> “Advertising will not send messages that prey on the fear or superstition of the target public” (article 5) and “Advertising should not encourage dangerous practices unless the public can deduce that it is safe” (article 9)	
<b>Expectations</b>	<b>General Law on Audiovisual Communication</b> “During the protection of minors time slot, audiovisual	<b>Code of Advertising Conduct</b> “(...) Advertisements must not create false expectations or		

	communication service providers may not insert commercial communications that foster an obsession with physical appearance and the rejection of one's own image through products such as slimming products, surgical interventions or aesthetic treatments that appeal to a social rejection of certain physical conditions, or success due to a certain weight or aesthetics" (article 7)	overestimate the skill level, or the age limit children need to enjoy or use their products" (article 28)		
<b>Incite behaviors that are harmful to health</b>	<b>Code of Advertising Conduct</b> "Advertising will not encourage recipients, especially teenagers, to acquire behaviors that may be harmful to their health." (article 29).	<b>Self-regulation codes on television content and minors and television programming in protected time slots</b> "Message will not incite children to imitate behaviors that are harmful or dangerous to their health, especially: the consumption of any type of drug and a desire for extreme thinness" (article 1.d)		
<b>False product characteristics</b>	<b>General Law on Audiovisual Communication</b> "Commercial communications on products especially those targeting minors, such as toys, should not mislead or present falsities about the characteristics of those products, their safety or the capacity and skills children need to use them without causing harm to themselves or to third parties." (article 3)	<b>Code of Advertising Conduct</b> "Special care will be taken to ensure that advertisements do not trick or mislead children as to the actual size, value, nature, durability and performance of the advertised product" (article 28)		
<b>Violent messages</b>	<b>Code of Advertising Conduct</b> "Advertising will not incite violence, nor suggest that there are benefits to be gained from aggressive or violent attitudes." (art. 6)			
<b>Encouraging illegal behavior</b>	<b>Self-regulation codes on television content and minors and television programming in protected time slots</b> "Minors that can be identified with, will not be shown consuming alcohol, tobacco or narcotic substances" (article II.2.c)			
<b>Images of sex</b>	<b>Self-regulation codes on television content and minors and television programming in protected time slots</b> "Messages or scenes showing explicit violent or sexual content that lack educational or informative basis will be avoided in programs whose target audience are children, and during those program's			

	commercial breaks.”			
<b>Harm to the environment</b>	<b>Code of Advertising Conduct</b> “Advertising will not foster or encourage behaviors that harm the environment” (art. 12)			

*Main authors who have studied these regulations: Martínez Pastor, Serrano Maíllo, Vizcaíno-Laorga, and Nicolás Ojeda (2017), Martínez Pastor, Gaona Pisonero, and Nicolás Ojeda (2017), Andalusian Observatory of Non-Sexist Advertising, Andalusian Institute for Women – Department of Equality and Social Policies.(2013), Medina and Méndiz (2012), Martínez Pastor, Pérez-Ugena, and Coromina, Salas Martínez (2010), Rodríguez-Campra García (2009), Muñoz García (2009), Del Moral Pérez (2005).*

Source: Prepared by the authors.

## Conclusions

With regard to the first objective (to detect the main research trends in advertising-children and where there is a homogeneous line of research), current studies on advertising and children do not have one clear priority. Research is inconsistent, focuses on different themes, and lacks continuity over time with certain exceptions (studies focusing on toys or certain comparative studies). Television continues to be one of the most analyzed media, although there is a growing interest in online and interactive media, as well as other advertising formats related to videogames. Studies on kid YouTubers (where advertising is currently just within the limits of the law) is as of yet an emerging line of study. Although the dichotomy between media and online media has been overcome, it has not been sufficiently translated into research into advertising and children.

The first objective of the study also raised the possibility of finding neglected social needs. In this way, food and physical appearance are two clear concerns in research into publicity and minors. However, there is a lack of research on working with parents (educommunication-training rather than regulation and its subsequent monitoring) despite its importance, and we should thus start exploring this area.

The classification and organization of the lines of research on the topic of advertising and children (the second objective of this paper) and the relationship between these issues and the Spanish regulations (Table 1 & Table 2) as a case for study show that the research studies are either too generic or so specific that a very wide range of research lines has emerged which do not interrelate. This is unsurprising, as it is a complex issue and the legislation is inconsistent and, in many cases, repetitive. Thus, simplifying regulations, or at least clarifying and unifying them, would be of interest, and would also facilitate access for all relevant agents involved: industry, publicists, and users. Additionally, scholars will more probably be able to find and follow clearer lines of research.

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