



RULES OF THE JURY

These Rules of the Jury were approved by the Board of Directors of the Spanish Association for the Self-Regulation of Commercial Communication (AUTOCONTROL) on April 23rd, 1997. The latest amendments were approved by the Board of Directors on December 17th, 2014 (date of entry into force: March 1st, 2015).

TITLE I

COMPOSITION AND TASKS

ARTICLE 1.- NATURE AND INDEPENDENCE.

1.- The Jury is a body specialised in deontological-advertising matters. The Jury is composed of independent members, and it has specific attributions as indicated in these Rules. As a specialised body in charge of the extrajudicial resolution of controversies and commercial communication claims, this Jury shall be completely and absolutely independent in its functions.

2.- Members of the Jury should abstain in case of conflict of interest.

ARTICLE 2.- LOCATION.

The Jury is located in Madrid, at the headquarters of the **Spanish Association for the Self-Regulation of Commercial Communication (AUTOCONTROL)**.

ARTICLE 3.- COMPOSITION.

1.- The Jury will be composed of one Chairman, between three and six Vice-Chairmen and between nine and twenty members, all of them of unquestionable impartiality. Each Vice-Chairman will act as permanent Chairman of one Section of the Jury.

2.- Members of the Jury will not be able to maintain any kind of employment, business or organic relationship or a relationship of any other kind that implies a stable collaboration with members of the Association, neither during their term of office, not three years before it.

3.- AUTOCONTROL's Board of Directors, by a majority, will appoint and renew the Chairman, Vice-Chairmen and Members of the Jury. They will be chosen amongst independent experts of unquestionable high personal and professional prestige.

4.- The President and members of the Jury will be appointed for a renewable term of office of two years and they could be reappointed. Nevertheless, the composition of the Jury will be partially renewed every year.

5. - AUTOCONTROL's Director General, or the technical staff member in which he/she may delegate his/her power, will act as the Secretary of the Jury, with the right to speak, but not to vote.

ARTICLE 4.- TASKS.

The Jury will have the following tasks:

a) To draw up draft codes of ethics and other advertising standards rules on commercial communication-related matters, to be handed in to AUTOCONTROL's Board of Directors for their definitive processing.



- b)** To adjudicate, according to these Rules, on complaints alleging breaches of the codes or rules approved and/or applied by AUTOCONTROL, which are submitted against commercial communications which have been published or broadcasted by AUTOCONTROL's members or by non-members that expressly or tacitly accept the competence of the Jury.
- c)** When required t and under the terms and conditions provided for in these Rules, to issue deontological non-binding advisory opinions about the correctness of commercial communications broadcasted or published by non-members who had rejected to participate in the procedure described in the previous paragraph.
- d)** To adopt resolutions on requests for review on prior consultation reports issued by AUTOCONTROL's Copy Advice Team, submitted by natural or legal persons who are responsible for the advertising that is being questioned.
- e)** To issue technical or deontological reports concerning advertising issues as requested by the Association.
- f)** To act as arbitrator on advertising matters submitted to its adjudication.
- g)** To adopt resolutions, according to these Rules, on complaints alleging breaches of the EASA Best Practice Recommendation on Online Behavioural Advertising or of IAB Europe's OBA framework, in terms of behavioural advertising carried by companies bonded to the European initiative on behavioural advertising self-regulation.
- h)** Any other function connected with deontological advertising matters that are specifically entrusted to the Jury by the Board of Directors.

TITLE II

STRUCTURE AND COMPETENCES

ARTICLE 5.- STRUCTURE.

1.- The Jury may sit in Plenary Session or in Sections.

2.- Except for what is indicated in article 21, the Plenary Session of the Jury will be validly constituted when at least half plus one of all its members are present, excluding, for the purposes of this calculation, the members who abstained from voting or those whose challenge or rejection had been accepted. The Plenary Session of the Jury shall be chaired by the Jury's Chairman; in his/her absence, by one of the five Vice-Chairmen present at the meeting in turn, or failing this, by one of the Jury's members, elected by vote amongst them.

3.- The Sections will be composed of four members each, one of them being one of the Vice-Chairmen of the Jury, who will chair the Section. Each Section will have at least three substitute members, appointed amongst the members of the remaining Sections; they may be convened by the Secretary of the Jury in order to cover any absences.

ARTICLE 6.- MEETINGS.

The Jury, both in Plenary Session or in Sections, will meet as often as necessary.

Meetings shall be called at least 48 hours beforehand by the Secretary, who will provide the Jury with the corresponding agenda. In cases of special urgency, the 48-hour deadline may be ignored, but it should be motivated. If necessary, members of the Jury could participate in the meetings by distance communication means.



ARTICLE 7.- THE CHAIRMAN OF THE PLENARY SESSION.

1.- The Jury's Chairman will chair the Plenary Session, and will be in charge of maintaining order and good governance. He will make the necessary decisions to ensure its correct operation, making sure that the members duly observe their obligations.

2.- In the event of a draw in the votes and when it's not possible to reach a decision agreed by a majority, the Jury's Chairman will have the casting vote.

3.- The Jury's Chairman will decide upon the challenges submitted against Jury's members.

ARTICLE 8.- COMPETENCES OF THE PLENARY SESSION.

The Plenary Session will be competent to:

- a)** Approve the draft codes of ethics and rules of conduct on commercial communication matters.
- b)** Issue reports as requested by the Association.
- c)** Solve appeals against decisions issued by the Sections.
- d)** Review the non-binding advisory opinions on non-members' commercial communication matters issued by the Sections according to article 11 of these Rules.

ARTICLE 9.- SECTIONS.

1.- The Jury's Sections, all of them with the same competencies, will be solely distinguished by their number: First Section, Second Section, Third Section, Fourth Section, Fifth Section and Sixth Section.

2.- To be validly constituted, the Sections will require at least three members; one of them must be its Chairman, and will have the casting vote. Three substitutes (members from other Sections) will be permanently assigned to each Section; they may be convened by the Secretary, whenever they are needed, in order to reach the quorum to validly constitute the Section.

3.- If one Section cannot be formally constituted for reasons of participation, abstentions or accepted challenges, the Secretary will allocate the corresponding files to another Section.

4.- For those complaints that need to be adjudicated during the month of August, a special Section will be appointed, composed of members of any of the Jury's Sections; one of its members must be the Chairman of the Jury or one of the Vice-Chairmen.

ARTICLE 10.- DISTRIBUTION OF CASES.

1.- The cases will be distributed amongst the Sections in chronological order. The Secretary of the Jury will allocate them and he/she might group several cases together to be studied and to adopt a resolution by the same Section, in each session.

2.- When deemed appropriate or necessary, the Secretary of the Jury may provide the Jury not only with the file of the case, but also with reports on legal background, case law and/or deontological precedents related to each case.

ARTICLE 11.- COMPETENCES OF THE SECTIONS.

The Sections are competent to:

- a)** Issue reports as requested by the Association.



- b)** Adopt resolutions on complaints alleging breaches of the codes or rules approved and/or applied by AUTOCONTROL, submitted against commercial communications that have been published or broadcasted by AUTOCONTROL's members or by non-members that expressly or tacitly accept the competence of the Jury.
- c)** Issue, in accordance with these Rules, deontological non-binding advisory opinions about the correctness of commercial communications broadcasted or published by non-members who had rejected to participate in the procedure described in the previous paragraph.
- d)** Adopt resolutions on requests for revision of previous consultation reports issued by AUTOCONTROL's Copy Advice Team.
- e)** To act as arbitrator on advertising matters submitted to it for resolution.
- f)** Manage the explanatory requests established in article 27.
- g)** Adopt resolutions, according to these Rules, on complaints alleging breaches of the EASA Best Practice Recommendation on Online Behavioural Advertising and IAB Europe's OBA framework, in terms of behavioural advertising carried by enterprises bonded to the European initiative on behavioural advertising self-regulation.

TITLE III

OPERATING PROCEDURE OF THE JURY

CHAPTER I

BREACH OF CODES AND RULES OF CONDUCT

ARTICLE 12.- PROCEDURE.

- 1.-** The procedure may be initiated by any party having a legitimate interest against a specific piece of commercial communication. The complaints procedure may also be initiated ex officio by AUTOCONTROL's governing bodies, whenever the circumstances may require so.
- 2.-** The Jury will also adopt resolutions on any cross-border complaints submitted under the cross-border procedures set by the European Advertising Standards Alliance.
- 3.-** Moreover, the Jury will adopt resolutions on the complaints filed against advertisements already broadcasted or published in other countries which have been declared in breach of the applicable rules, either by the competent advertising self-regulation body that's a member of the European Advertising Standards Alliance, or by a judicial court or equivalent body, provided that there is enough evidence as to its imminent broadcasting or publication in Spain. This will not apply when the advertiser expressly declares its definitive intention not to release the complained advertisement in Spain.
- 4.-** In order to process the complaints presented for violation of behavioural advertising rules provided in EASA's Best Practice Recommendation on Online Behavioural Advertising and IAB Europe's OBA framework, the rules exposed in the aforementioned recommendation and its development documents will be taken into account, where applicable.

ARTICLE 13.- COMPLAINTS.

- 1.-** All complaints concerning the infringement of advertising ethical codes must be duly submitted in writing, where the complainant must include at least the following information:
 - a)** Complainant's name and surname or company name as well as address and, in case of representation, the power of attorney proving such representation.



- b) An e-mail address where notifications may be addressed; any notification will be valid from the moment it is addressed to the indicated address and when the delivery to such address is confirmed.
- c) The essential facts of the alleged breach and the complainant's plea.
- d) Documents and evidences supporting the facts.
- e) Where applicable, the proposal to challenge a member of the Jury.

2.- Complaints on advertisements which have not been broadcasted or published within the previous 12 months will not be accepted, unless in the cases indicated in article 12.3 of these Rules. The complaint shall neither be handled if the complained company accepts the complaint and commits itself in writing not to broadcast or publish the complained commercial communication ever again.

3.- Similarly, complaints on issues related to commercial communication that have been solved or are being processed a judicial court or are undergoing an administrative procedure will not be accepted.

4.- If a complaint submitted in front of the Jury is also filed and admitted by a judicial court, the proceeding in front of the Jury will be immediately interrupted.

ARTICLE 14. - CHALLENGE AND ABSTENTION.

1.- Members of the Jury should abstain and may be challenged on the following grounds:

- a) Having a direct or indirect interest in the case submitted before the Jury.
- b) Provide or having provided professional services to any of the complaining parties, within a period of less than one year.
- c) Having or having had an employment relationship with either of the parties.
- d) Being accused or having been accused of a crime or offense by either of the parties.
- e) Complaining or having complained against any of the parties.
- f) Having or having had a legal dispute pending with any of the parties.
- g) Having a manifest close friendship or conflictive relationship with any of the parties.

2.- A member of the Jury in any of the aforementioned circumstances should abstain from hearing the case without waiting to be challenged.

3.- The parties of the complaint and AUTOCONTROL's governing bodies are entitled to challenge a member of the Jury.

4.- The complainant should include the challenge request in the complaint document. The complained company may request the challenge within 3 working days upon reception of the formal notice and the complaint document. The Chairman of the Jury will analyse the motivated request for challenge and make a decision. The Secretary of the Jury will inform both the Chairman of the competent Section and the parties about the decision of the Jury's Chairman.

5.- The members of each Section will be informed in advance of the cases to be processed in each meeting, so that they may abstain if necessary.

ARTICLE 15.- TIME LIMITS.

1.- For the purposes of calculating the time limits , Saturdays, Sundays, public holidays, the days from December 24th until December 31st and the month of August will not be considered working days.

2.- However, and despite the previous paragraph, concerning the month of August, the complainant could request in the written statement its authorisation by submitting all statements and evidences that may justify the urgency to initiate the proceeding.



3.- The Secretary of the Jury, with the previous approval of the Chairman or the Chairman of the Section on duty, will analyze the statements and evidences submitted by the complainant and, in case of detecting reasons to urgently initiate the proceeding, he/she will authorise for the adjudication to be done in the month of August and will try to call the Section on duty mentioned in article 9 of these Rules.

ARTICLE 16.- SUMMONS.

1. As soon as the Secretary of the Jury receives the complaint and verifies that it complies both with AUTOCONTROL Statutes and these Rules, he/she will send a copy of the complaint and enclosed documentation to the complained party or parties, asking them to reply within the time limit of five working days upon reception of those documents. The complained party or parties' reply and any evidences attached shall be sent in writing to AUTOCONTROL headquarters.
2. For the purpose of time limits, the documents required to initiate the process shall be received within office hours of the Association (taking into account, where applicable, summer schedule or other exceptional schedules).
3. Companies that are members of AUTOCONTROL, as well as those who urge the actions of its bodies or that in any other way submit to their procedures, will be required to provide a valid e-mail address where they may receive notifications. Any notification will be valid from the moment of the confirmed delivery to the address provided.

ARTICLE 17.- MEDIATION.

1.- If it is possible to reach an agreement between the parties, the complaint will be solved through AUTOCONTROL's mediation, so it will not be sent before the Jury.

2.- a) The Secretary of the Jury will try to mediate between the parties, if requested by the complained company.

b) If the complainant refuses mediation, the complaint will be archived.

3.- If the parties do not reach any agreement before the meeting of the Jury, it will adjudicate on the complaint within the time limits established in this Chapter. Under no circumstances, the time limit to reply the complaint shall be interrupted by the attempt to mediate.

4.- Mediation will be carried out in accordance with what is prescribed by Law 5/2012, of July 6th, of mediation in civil and commercial affairs.

ARTICLE 18.- COMPLAINT PROCEDURE.

1.- Once the reply of the complained party has been received within the established time limit indicated in article 16, the competent Section will study the complaint and the evidences submitted by the parties. After examining them, the Section will adopt a resolution.

The parties might present reliable opinion surveys to the Jury to support their claims. As long as such surveys are validated by independent, reliable and specialised market research organisations recognised by AUTOCONTROL or, otherwise, recognized by the Jury, such surveys will be taken into consideration by the Jury together with the rest of elements and evidences included in the file of the case.

2.- If the complaint presented by the claimant is submitted against a non-member's commercial communication and the company replies by specifically refusing to take part in the procedure, the Section will not adopt a resolution. Notwithstanding the former, upon the complainant's request, the Section will issue its deontological non-binding advisory opinion about the correctness of the commercial communications broadcasted or published by the non-member company.



ARTICLE 19.- APPEAL AND REVISION OF NON-BINDING ADVISORY OPINION.

1.- Resolutions adopted by a Section may be appealed before the Plenary Session of the Jury within four working days upon reception of the resolution in writing.

2.- Similarly, the revision of a non-binding deontological advisory opinion issued by a Section may be requested before the Plenary Session of the Jury within four working days upon reception of the opinion in writing.

ARTICLE 20.- APPEAL PROCEDURE.

1.- Appeals shall be submitted in writing, and they must clearly indicate the reasons for appealing the Sections' resolution.

2.- Once the written appeal is received by AUTOCONTROL, the Secretary of the Jury will immediately send it to the other party, so that it may reply within the time limit of four working days upon reception.

3.- Once the reply has been received within the aforementioned time limit or if such time limit has expired, the Plenary Session of the Jury will meet and adopt a resolution.

4.- Within the appeal procedure, the Plenary Session of the Jury will only accept those evidences which could not be submitted before the Section due to duly proved objective or temporary reasons.

ARTICLE 21.- RESOLUTION ON APPEALS AND REVISION OF NON-BINDING ADVISORY OPINIONS.

Within both the procedure of appeal and/or revision of non-binding advisory opinions, the Plenary Session of the Jury will be composed by the Chairman of the Jury and the Chairmen and members (regular or substitute members) from two Sections different from the Section of the Jury which had adopted a resolution as a first instance or had issued the challenged advisory opinion. Article 5.2 of these Rules shall be applied for the purposes of quorum and substitution of the Chairman.

ARTICLE 22.- NEW EVIDENCE.

The Jury or its Chairman may order new evidence if they consider it necessary or appropriate to clarify the facts.

Among such new evidence and without prejudice of article 18, the Jury or its Chairman may commission reliable opinion surveys, in agreement with the parties, who will pay for their costs.

ARTICLE 23.- ORAL HEARING.

When considered necessary or appropriate for the better resolution of the complaint, the Chairman of the Section or the Plenary Session may decide to hold an oral hearing with the parties before the Jury's deliberation and resolution. Each party will only be able to request one oral hearing in the framework of all stages of the same procedure.

ARTICLE 24.- CONFIDENTIALITY.

The parties shall commit not to disclose or advertise either the fact that a complaint has been submitted and is being handled or its resolution until it has been released or published by AUTOCONTROL.



ARTICLE 25.- RESOLUTION.

1.- The Jury's resolutions will be adopted by majority of its members. Dissenting members may formulate an individual opinion, which shall be enclosed in the resolution. In case of a tie, the Chairman of the Jury (Section or Plenary Session) will have a casting vote.

2.- The resolution upholding the complaint –and therefore declaring the complained advertisement in breach of the Code– will include all or some of the following elements:

- a) Declare that the complained advertisement is incorrect.
- b) Urge the advertiser to definitely withdraw or amend such advertisement.
- c) Issue a warning.
- d) In those cases considered particularly inadequate by the Jury, active publication of the resolution in the way the Board of Directors considers more appropriate.
- e) Either urge the withdrawal of the trust seal of the European Interactive Digital Advertising Alliance (EDAA "Trust Seal") or the icon of online behavioural advertising of the European Interactive Digital Advertising Alliance (OBA Icon) in the event of breaching EASA's Best Practice Recommendation on Online Behavioural Advertising.

ARTICLE 26.- MOTIVATION.

All the Jury's resolutions for breaching codes of ethics or rules of conduct in commercial communication matters shall be motivated. In the operative part (conclusion or decision), resolutions shall state the existence or inexistence of the alleged breach and, where applicable, they will indicate the imposed sanctions.

ARTICLE 27.- REQUEST FOR CLARIFICATION.

1.- Any of the parties in the complaint may ask the Jury for a clarification of its resolution within two days' time. Such request shall be addressed to the Secretary of the Jury, who will immediately refer it to the Chairman of the Section that had adopted a resolution on the case or to the Chairman of the Plenary Session in case of an appeal.

2.- The request for clarification will never interrupt the time limit for an appeal.

ARTICLE 28.- ENFORCEMENT.

1.- The resolutions adopted by the Jury (Section or Plenary Session) shall be immediately communicated to the parties and affected members for their enforcement.

2.- The Board of Directors will supervise and impose the enforcement of the Jury's final resolution in an effective way.

ARTICLE 29.- PUBLICATION OF RESOLUTIONS.

All Jury's resolutions and non-binding advisory opinions, except those concerning advertising of which the company responsible for it had rejected the competence of the Jury, will be made public in AUTOCONTROL's newsletter, in its website, or through other means of the Association.



ARTICLE 30.- EFFECTS OF THE RESOLUTIONS OF THE JURY.

1.- Jury's resolutions will be binding for all AUTOCONTROL members, and for those people who are related to them. Moreover, to those people not related to them who expressly accept the competence of the Jury.

2.- In particular and without excluding other assumptions, it will be understood that there is express acceptance of the Jury's competence in those cases where a person that is not related submits a complaint before the Jury in any procedure. Such person shall have submitted the complaint one year prior to the date in which the Jury makes it public if there is acceptance of the complaint or when such person answers a complaint made without objecting the competence of the Jury.

ARTICLE 31.- EFFECTS OF THE JURY'S NON-BINDING ADVISORY OPINIONS.

Non-binding advisory opinions issued by the Jury (Sections or Plenary Session) in accordance with these Rules, shall be communicated to the complainant. They shall also be communicated to the administrative and/or judicial authorities in those cases where the Jury or AUTOCONTROL's Board of Directors may consider it appropriate.

CHAPTER II

PRIOR CONSULTATION AND ARBITRATION

ARTICLE 32.- PRIOR CONSULTATION REQUEST.

1.- Advertisers and/or their agencies may submit their own advertising projects which are at production stage or in any phase before their publication or broadcast to prior consultation. AUTOCONTROL's Copy Advice Team will provide them with its advice concerning the legality or ethic correctness of the submitted piece of advertising, on a confidentiality basis.

2.- Media may also request previous consultation in relation with those advertisements they have received for publication or broadcast. In an urgent preliminary analysis, AUTOCONTROL's Copy Advice Team will indicate whether there are significant reasons of a preventive nature advising not to broadcast or publish the ad, or to do it.

3.- Prior consultation reports will be issued by AUTOCONTROL's Copy Advice Team and will not be binding neither for the requester nor for the Jury.

4.- In case the requester was not satisfied with the report issued by AUTOCONTROL's Copy Advice Team, he/she might ask the Jury (Section) for a review, providing the Jury with any argument, document or evidence deemed appropriate. Such Jury's review decision will be binding for the requester.

5.- If a complaint is submitted against a commercial communication which had been previously submitted to prior consultation, the complaint will be adjudicated by one of the Jury's Sections. If such prior consultation report had also been submitted to review, the Section of the Jury that had reviewed shall abstain.

ARTICLE 33.- BAN OF ADVERTISING USE.

It is not allowed to mention in advertising neither the conclusions of a previous consultation report issued by AUTOCONTROL's Copy Advice Team nor even the mere fact of its request or issuing, unless it is authorized by the Code of Conduct applied to the complained advertisement by AUTOCONTROL...



ARTICLE 34.- ARBITRATION

- 1.- The Jury may act as an institutional arbitrator, if both parties in conflict agree.
- 2.- In that case, the parties will choose, amongst the members of the Jury, one, three or five arbitrators. If the parties do not agree about the appointment of the arbitrators and arbitration is in equity, it shall be carried out by the corresponding Jury's Section in chronological order.

ARTICLE 35.- ARBITRATION PROCEDURE

- 1.- Arbitration procedure will follow what is established in the Arbitration Law 60/2003 of December 23rd.
- 2.- The arbitration decision shall not be appealed before the Plenary Session of the Jury under any circumstances.

ARTICLE 36.- COOPERATION WITH THE PUBLIC ADMINISTRATION

In the event that and administrative or judicial authority might ask AUTOCONTROL for its opinion on a piece of commercial communication, AUTOCONTROL shall provide them with the Jury resolution and/or the positive previous consultation report received for such advertisement. If there is no resolution or previous consultation report, as well as in those cases where the aforementioned authorities send a request for intervention to AUTOCONTROL, the authorities' request will be referred to the Jury, and a complaint procedure (article 13) will be then initiated *ex officio* to obtain the Jury's resolution or opinion, in accordance with these Rules.

FINAL PROVISION

These Rules shall enter effectively into force on March 1st, 2015, after their publication in AUTOCONTROL's website and in its newsletter.