

# Institutional Advertising in the Spanish Parliament

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**Abstract:** This article presents the results of a study about the legislation of institutional advertising in the Spanish Congress, which is understood as an arena for political communication. The research is focused on the analysis of the parliamentary initiatives and the corresponding parliamentary debates, with special emphasis on the legislative initiatives prior to the 2005 Law of Advertising and Institutional Communication, and its value as predecessor of other regulations. The first proposal of the law, still rejected, was taken by different political forces as the basis for subsequent regulative proposals concerning institutional advertising. The position of different groups, and their arguments, shows a clear lack of coherence in many cases. The comparison of the different initiatives in different Spanish chambers –and the debates around them- is a first step to establish the policy memory which, beyond the specific case of institutional communication, becomes a very useful instrument in the field of Political Communication.

**Keywords:** Political communication; institutional advertising; debate; parliament; regulation.

**Summary:** 1. The Spanish parliament as public space. 2. Institutional Advertising in the Spanish parliaments. 3. Parliamentary Initiatives in the Spanish Congress of Deputies. 4. Elements of the Parliamentary Debate. 5. Conclusions. 6. Bibliography. 7. Notes.

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## 1. The Spanish parliament as public space

Although political communication and information have been captured in the media sphere (Durán Muñoz, 2004), certain aspects of this type of communication are not integrated in the media public sphere. Thus, the move from the “public affairs sphere” to the “public sphere” is a restrictive evolution, in which the public political sphere ends up overflowing the field of political communication, but some elements of the former end up excluded from the latter (Ferry, 1995).

The “over-dimensioning of the social role of the media” and the logic of the media visibility are two determining factors to gain presence in the public sphere (Córdoba, 2006).

As Martínez-Nicolás (2007: 215) points out, the democratic public sphere, which is characterised by diversity and interaction, is damaged by the “predominantly *mediacentrism* of political communication research in Spain” [1].

Under such conditions the political activity developed in parliaments has been marginalised or relegated to a secondary level in the majority of communication studies (Slapin, J.B. and Proksch, S-O, 2009), which forget the fact that the chambers of parliament are public arenas [2] and that their actions only acquire legitimacy through two principles: dialogue and advertising. Precisely, “the Parliament acts as a public body because it has been previously configured as governing body” (De Vega, 1985: 54) and not only because it is a meeting place for the media. These two legitimating principles (advertising and dialogue), according to Alzaga (2004), are synthesised in a single notion: the public debate.

The centre of the political system consists of a series of institutions (including parliaments), each of which can be described as a specialised governing arena (Habermas, 2006).

Political communication is developed in diverse spaces, the *arenas*, which have their own rites and procedures; in which theatricality is usually expressed through confrontation (Bélanger, 1998). These arenas of political communication constitute the ground of the political activities that tend to trigger communication (Gosselin, 1998).

The parliamentary debate is one of these arenas of political communication that corresponds to a macro-sociological level of observation. Our analysis is based on the observation of the behaviour of the political actors, and not in the results of their actions. Our aim is not to establish, from a positivist perspective, the different regulations on institutional advertising (our object of analysis), but to better understand the behaviour of the political actors in relation to this issue.

Of course what matters will be the result of that interaction (the promulgated laws), but as Alzaga rightly notes (2004: 141):

“the advertising that characterises the law-making process is reflected not in a snapshot but rather on a film composed of numerous frames, which reflect the bill, the amendments, the subsequent debates in the Chambers, the texts that are adopted in the various bodies of the Courts...”

This article does not aim to show the whole film, but to examine some of its sequences with the intention of facilitating the understanding of the legislative work on institutional

advertising in Spain and to counteract the effect of some assertions that have been maintained in recent years.

On the other hand, we want to stress how important it is for political communication research to address “the *political processes* that lead to the *decision making*” [3] (Martínez Nicolás, 2007: 216), and the *policy-making*, or the establishment of the *policy memory*, which is understood as “the progress of political ideas from the moment of their introduction to parliament up to the time where they become confirmed policy” (Renton, A. and Macintosh, A., 2007: 2).

Addressing the analysis of the interaction between political representatives and the empirical study of parliamentary speeches will also contribute to the understanding of the framing of political issues and the comparative evaluation of the deliberative behaviour of different parliaments (Bara, J., Weale, A. and Bicquelet, A., 2007).

## **2. Institutional advertising in the Spanish Parliaments**

In Spain there is no national legislation on institutional advertising, even after the enactment of the 2005 Law on Advertising and Institutional Communication, because it is not general, and only affects the federal government (*Administración General del Estado*) and its depending bodies. However, the legislative initiative presented by the government of the Spanish Socialist Workers’ Party (*PSOE*) had great repercussion and became a milestone in this field.

This milestone had a future, but also a past, which is the focus of this work. And from this past, this article will focus on addressing the process leading to its proposal rather than to its promulgation. Obviously the initiative of the *PSOE* government was not the first to be adopted in Spain, since there are several earlier regional laws. In addition this article also seeks to establish the ‘policy memory’ of Spain’s regulation of institutional advertising, for which it is necessary to examine the path taken by the various initiatives in the Spanish parliaments.

This research considered all the parliamentary initiatives on institutional advertising that were presented in the Congress of Deputies [4] as well as the legislative initiatives presented in the different regional autonomous chambers. The quantitative analysis focused on the data relating to the type of initiative, the date of creation, and the proponent group.

We also applied discourse analysis to the legislative initiatives and debates around them to determine the similarities and divergences between them, and the main arguments put forward in favour or against by the various parliamentary groups on each occasion.

One would expect that the location of the groups within the ideological spectrum would be the determining factor, and that the various arguments and positions would be characteristic of one side or another of the parliamentary party groups. In other words, one would expect that the parliamentary groups would adopt a position and would put forward some specific arguments on the basis of their ideological allegiance (Bara, J., Weale, A. and Biquelet, A., 2007). However, as we will see later, the analysis shows that, although with some exceptions, this is not the case.

## 2.1. Background

As already mentioned, the excessive mediocrity of political communication studies has not favoured (but all the contrary) the study the interaction between the political actors in the parliamentary arena.

Precisely, one of the few works on this issue focuses on institutional advertising (Cid, 2004). Its author maintains that the parliament and the political forces have shown little interest in the subject under study, and argues, among other things, that “there was no request to write a law on institutional advertising, and that its proposal came from the parliamentary minority”. However, Cid refers here to two white papers put forward during the 6<sup>th</sup> parliamentary term (1996-2000), which he wrongly considers as the first proposals.

In his considerations Cid did not take into account several white papers presented in the Congress of Deputies and the Assemblies of Navarre and the Basque Country between 1992 and 1993, or the first laws on institutional advertising which were adopted in several autonomous communities: Andalucía (1995), Extremadura (1996), Catalonia (2000), Valencia (2003) and Aragon (2003).

If we also consider the parties governing these autonomous communities (Convergence and Union [*CiU*], the Popular Party [*PP*] and the Spanish Socialist Workers’ Party [*PSOE*]), and the various white papers (known in Spain as *proposiciones de ley*) presented in other autonomous communities by other minority groups (Popular Party (*PP*), Extremadura United [*EU*], Republican Left of Catalonia [*ERC*]), we believe that it cannot be affirmed, as Cid does, that since 1992, when this subject was raised in parliament, institutional advertising “became irrelevant for the political forces until the arrival of the PP to the government in 1996”.

Moreover, regarding the Congress of Deputies, the white papers presented by the IU-IC (United Left-Initiative per Catalonia) Federal Group, and the Mixed Group, in 1997 and 1998, are not the first legislative initiatives on institutional advertising as Cid points out in his article, because in 1992 the PP presented a white paper *on advertising from the public sector* (BOCG-Congreso, n° 124-1), which was presented once again in 1993, and another white paper proposing the reform of the Organic Law on the General Electoral System (hence, LOREG) and the Law on political advertising in private television stations, which aimed, among other things, to “limit the cost and purpose of institutional campaigns”, as pointed out in the statement of motives (BOCG-Congreso, n° 158-1). These three white papers referred (although the latter does so partially) to institutional advertising, although with other terms in their titles [5].

The first parliamentary initiatives presented in 1992 and 1993 were at that time considered as “punctual interventions of minor importance [...] by the parliamentary minority”. Although the transcendence of the proposals made by minority groups is often (or mostly) minor, this is not the case in the subject under study: the first two adopted laws (Andalusia 1995 and Extremadura 1996) were proposals submitted by minority groups: in Andalusia, with the opposition of the PSOE group, which supported the government; and in Extremadura, where eventually obtained the support of all the parliamentary groups, after an intense (and extensive) debate.

There is a tendency to attribute the authorship of the laws, or at least of their initiative, to the government. If we read the law or its reference, we can easily commit this mistake. Thus, we could attribute the social impulse of the two laws passed during the PSOE administrations to the PSOE. The reading of the white papers (presented by minority groups) shows us who the first authors of the legislative initiative are. The review of parliamentary debates shows that the government (and the parliamentary group behind it) opposed a legislative provision that was finally adopted (Andalusia, 1995) and that the different groups reached a negotiated solution through transactional amendments (Extremadura, 1996).

In any case, and this is what we want to underline now, in some occasions the creation of the laws “is promoted by the parliamentary minority”, whose involvement is crucial. Moreover, the white paper presented by the PP in the Assembly of Andalusia in 1994, which was adopted without modifications in 1995, was the same paper submitted in 1992 at the Congress of Deputies, where it was rejected. Therefore, the text of Andalusia’s 1995 Law on institutional advertising (*Ley 5/1995*) is substantially identical to the white paper submitted by the PP in the Congress. When the proponent group is the minority group of opposition in both chambers the crucial factor is the correlation of forces between majorities and minorities.

The examination of the legislative process (policy-making or policy memory) allows us to refute some previously expressed claims and to understand the complexity of the political process in a field characterised above all by the coexistence of several legislative chambers in which almost the same political forces concur.

### **3. Parliamentary initiatives in the Spanish Congress of Deputies**

The parliamentary activity is not limited to debates, amendments and adoption of laws. The legislative function is the most important because it directly affects the citizenry and acquires great relevance in the media's public sphere (Green-Pedersen, 2009).

Although the types of initiatives may vary depending on the rules of each chamber, all of them are part of one of the three functions exercised by its members, which in the case of the Congress of Deputies are:

- Legislative function, which is developed through bills (*proyectos de ley*) and white papers (*proposiciones de ley*);
- Political orientation function, which is developed through green papers (*proposiciones no de ley*);
- Controlling function, which is developed through questions, requests for hearings and reports.

Since the third parliamentary term (1986-1989) the subject of institutional advertising regulation has been present in the Congress continuously, yet unevenly, and with majorities (absolute or not) in favour and against.

Table 1, presents all the initiatives presented from 1986 until the present day [6]. A total of 150 initiatives were submitted: 141 corresponding to the controlling function, 7 to the legislative function, and 2 to the political orientation function.

Two of the written response questions presented in the current parliamentary term were multi-sub-questions (Rasiah, 2007): “17 questions on the percentage of the advertising campaigns and institutional communication [...] in the digital press”, “16 questions on media [...], corresponding to different Ministries”. If we consider these 33 sub-questions, the total number of initiatives corresponding to the controlling function rises to 172 and, as a result, the total of all parliamentary initiatives would rise to 181 [7].

**Table 1: Total of initiatives presented in the Congress of Deputies in connection with the institutional advertising**

INITIATIVES		PARLIAMENTARY TERMS							Totals
		3 <sup>rd</sup> 1986 1989	4 <sup>th</sup> 1989 1993	5 <sup>th</sup> 1993 1996	6 <sup>th</sup> 1996 2000	7 <sup>th</sup> 2000 2004	8 <sup>th</sup> 2004 2007	9 <sup>th</sup> 2007	
<b>Controlling Function</b>	Oral questions	2	1				1		4
	Written response questions		3		1	63	9	48	124
	Hearing request						1		1
	Report request to the Federal Government					5	4	2	11
	Report request to a local body				1				1
<b>Legislative Function</b>	Bill						1		1
	White paper		2	1	2	1			6
<b>Political orientation function</b>	Green paper					1	1		2
<b>Totals</b>		2	6	1	4	70	17	50	150

The absolute predominance of non-legislative initiatives results natural, given their interest to opposition groups, which are their main promoters (Green-Pedersen, 2009).

### 3.1. Controlling function

The controlling function is, by far, the one leading most interventions on institutional advertising in the Congress of Deputies: 94% of the total, if we consider the multi-sub questions as single units, as they were formally submitted [8].

The first two initiatives were oral questions made to the general director of RTVE about the institutional advertising of autonomous communities and municipalities in national television and radio stations in 1987. The third initiative was presented in 1992 by the Social Democratic Centre (CDS), which was addressed in Cid (2004). This initiative was interested on “the date set for the adoption of a bill to regulate institutional advertising”. The last one was proposed, after the 2005 Law on advertising and institutional communication (*Ley*

29/2005) was adopted, by Convergence and Union and sought the opinion of the President about its degree of compliance.

Interestingly, the written response questions are the initiatives most frequently employed by the parliamentary groups, which accounts for 87.94% of the control-aimed initiatives and 82.66% of the total [9]. Almost 90% of them were applied in the second parliamentary terms of the last two administrations: 50.80% in the 7<sup>th</sup> (PP government with absolute majority) and 38.70% in the 9<sup>th</sup> (PSOE government with a parliamentary minority).

During the 7<sup>th</sup> parliamentary term 63 written response questions were asked, 57 of which (more than 90%) were asked in the same meeting (18 July, 2002) and referred to different aspects of “the advertising campaigns and propaganda [...]” from 1996 to 2002”, i.e., during the whole PP’s government. Among the other questions, one was formulated in 2003 about the highly controversial “institutional campaign undertaken to announce that on 15 January, 2003, the pensioners received the only pay to compensate them for the diversion in inflation in 2002”, which became the subject of an audit report by the Court of Auditors, which revealed several irregularities.

In the 8<sup>th</sup> parliamentary term, the PP group made five questions about the enactment of the 2005 Law on advertising and institutional communication. Once the law came in effect, four more questions were formulated by the same group and two others by the Republican Left of Catalonia, all of which were related to some specific campaigns (and in some cases demanded the compliance with the provisions contained in the Law).

All the written response questions formulated during the 9<sup>th</sup> parliamentary term were asked in 2009, except for two questions which were made in December 2008 (relating to the use of Catalan in the territories where the language is official). The last question (dated 23 June, 2009) justifies the submission of almost all the previous ones, because it was interested in the deadline to hand in the report on the institutional advertising of 2008 to the Courts. The data on which the opposition was interested had to appear in the report, which still had not been submitted to the Courts.

The only hearing request, made by the PP in 2006, was directed to the First Vice-President of the Government to ask her to report to the Constitutional Commission on the “use of institutional advertising to include subliminal electoral messages in favour of the ruling party”. This request eventually expired.

Of the report requests presented during the 7<sup>th</sup> parliamentary term, one was submitted by the Mixed Group, which was interested on the expenditure of the Provincial Deputation of



Alicante on activities approved by the General Law on Advertising during 1998. The rest of the request was directed at the Federal Government: four sought to collect information on the campaigns carried out from 1999 to 2002; and one aimed to obtain information about the institutional advertising carried out during the last parliamentary term in Andalusia, “as well as the expenses incurred during the pre-campaign and campaign of the general elections of March 2000”.

During the 8<sup>th</sup> parliamentary term the Republican Left of Catalonia was the one demanding to know the cost of the contracts signed from 2001 to 2004. The PP group, for its part, requested the report submitted by the first Vice-President of the Government to the Council of Ministers, as well as the Institutional Advertising and Communication Plans from 2006 to 2008.

Finally, in the 9<sup>th</sup> parliamentary term the PP group once gain requested the Ministry of the Presidency to report on the plans for 2008 and 2009.

In his analysis of the controlling activity during the first four parliamentary terms with a Socialist Government (2<sup>nd</sup> to 5<sup>th</sup>), Sánchez de Dios (1995: 36) pointed out that:

“in a broad sense the parliament’s controlling activity extends to all types of parliamentary procedures, so we can say that, in general, the parliamentary acts can be polyvalent. Thus, we can consider that the parliamentary control extends to the legislative activity...”.

This author considered that the controlling activities (in the strict sense) included the green papers, which at present are included in the function of political orientation. But it should be noted that, when referring to the activity developed by the Catalan Group during the four analysed parliamentary terms, Sánchez de Dios concluded that “the Catalan group’s activity aims to influence the *indirizzo* of Government through the controlling activity” (Sánchez de Dios, 1995: 45), precisely, by influencing the polyvalent character that the parliamentary acts may have, and which we will analyse again in relation to the first white paper presented at the Congress of Deputies.

Most of the control-aimed initiatives, related to the field under study, were submitted, successively, by the PP and PSOE groups as a logical consequence of their status as main opposition parties (Sánchez de Dios, 1995; Green-Pedersen, 2009).

### 3.2. Political Orientation Function

In the period under analysis only two green papers were submitted, and both at the Commission. In the first green paper, about institutional advertising on the Internet, the PSOE group urged the government to adapt it to “the current social and technological reality”; while the second, IV-IU-IC, urged the Bureau of the Congress to ask the government to cancel an agreement signed between the Ministry of Defence and the Spanish Basketball Federation, under which the equipment of the national teams would include the logo of the three armies.

This last green paper was withdrawn by the proponent group, while the one presented by the PSOE group was rejected in the Committee on Science and technology, so it was never addressed in the plenary.

It is worth mentioning that in the Congress of Deputies none of the green papers urged the government to submit a bill on institutional advertising, as it happened in various regional chambers.

However, the analysis of some of the parliamentary debates shows that the ultimate intention of the proponent group (given the few chances of success) is to promote debate in order to urge the government to take the initiative. In other words, the ultimate goal of a white paper is more related to the political orientation than the legislative function.

### 3.3. Legislative function

As already noted, this is the most important and transcendental parliamentary function, because we are referring to the legislative power. And this function is performed by the groups regardless of their majority status or not, although this status may influence, of course, the outcome of their initiatives.

**Table 2: Legislative initiatives submitted to the Congress of Deputies**

Parliamentary term	Year	Type of initiative	Proponent Group
4 <sup>th</sup>	1992	White paper on public sector advertising	Popular Party
4 <sup>th</sup>	1992	White paper on the reform of the LOREG...	Popular Party
5 <sup>th</sup>	1993	White paper on public sector advertising	Popular Party
6 <sup>th</sup>	1997	White paper on Institutional advertising	United left-Initiative per Catalonia
6 <sup>th</sup>	1998	White paper on Institutional advertising	Mixed group
6 <sup>th</sup>	2000	White paper on Institutional advertising	Mixed group
8 <sup>th</sup>	2005	Bill on Advertising and Institutional Communication	Government (PSOE)

Although the Law on advertising and Institutional Communication was adopted in late 2005, several white papers addressing such activity had been previously submitted.

It is true that none of the white papers from the opposition groups even became an initial text which, although amended, could have led to the enactment of a possible law. However, their transcendence was greater than expected, to such extent that the first white paper (PP-1992a) [10] can be considered as a source-document, giving its influence on subsequent proposals.

### **3.3.1. Regulation of “public sector advertising”**

We can consider jointly the two white papers presented under this name in the Congress of Deputies (PP-1992a and PP-1993), since the almost identical, which is reflected not only in the comparison of the texts, but also in the statements made by the representative of the proponent group in the debate on the PP-1993: “we submit once again for the consideration of the House the same white paper, with the amendments suggested by the previous debate” (DS-Congreso n° 43).

We must point out one aspect expressed in both debates and which in our view is essential: the clear intention of the proponent group, whose representative stated:

“... the PP group submitted to the Bureau of the Congress nine white papers which attempted to control the arbitrariness in the public administration, given the magnitude that the arbitrariness and the resulting corruption have reached in Spain”.

This is one of these polyvalent parliamentary acts referred to by Sánchez de Dios, i.e. one of those cases in which the parliamentary control extends to the legislative activity. In other words, according to Battegazzorre (2008), those nine white papers put forward by the PP (and therefore the object of interest here) should be considered part of the domain of the legislative and institutional control, as opposed to political control, which would be the strict type of control.

But despite its character (closer to the controlling function than the legislative function) and having been rejected, the PP-1992a white paper had a great influence not only in other proposals, but also -as we shall see- in the first two laws enacted in Spain (Andalusia 1995, and Extremadura 1996).

The articles of the text and the statements expressed in the Statements of Intent and in the plenary debate show that the ultimate goal of this white paper is to make “the legislator to

arbitrate the media to avoid any unfair competition promoted from the public sector that can negatively influence the informative pluralism” (BOCG-Congress, Series B, n° 124-1). In fact, four of the six articles in the white paper refer to the contracting and the Transitory Provision. However, the other two articles are of great interest, because they establish what should be understood as “public sector advertising” and the restrictions to be applied during election periods.

Article 1 defines what is meant by institutional advertising (advertising from the public sector, in the initial proposals of the PP group) and determines its issuers and objectives [11], through some terms which, with certain amendments and adaptations, have been used in other white papers, and, even, in some legislations which were later approved. This article points out that:

“advertising means all types of communication directed to a plurality of recipients carried out on the request of the public administration, or its autonomous bodies, the public law entities and the national organizations, which aim to:

- a) promote behaviours, products, services or ideas;
- b) inform about the rights and obligations of citizens or civic groups;
- c) inform about the existence of entities [...], its activities, services or products;
- d) promote any other message that is part of the competences or purpose of the entity, society, or public-legal entity that promotes the communication”.

On the other hand, trying to avoid influences over citizen’s votes, article 6 establishes the suspension of “all the advertising included in article 1” [12] during the election periods, as well as the obligation to prove the compliance with this rule in the subscribed or awarded contracts.

Finally, for the purposes of this work, it should be highlighted that the First Final Provision considers the content of the law as a national legislation, and “in consequence, applicable to all public administrations”.

The consideration of “all forms of communication directed to a plurality of recipients” clearly transcends the strict field of advertising and does not appear appropriate whatsoever [13] but appears in more texts. The consideration also appears in at least other three white papers submitted in different regional assemblies by other parliamentary groups; and even in the first two regional laws.

However, this was not the only content that had continuity in other texts. Most of its articles are reproduced -faithfully- in many of the white papers presented up to 2000 [14], both in the Congress of Deputies and in the Chambers of Deputies of the Basque Country, Catalonia, Andalusia and Extremadura, some of which were proposed by groups such as the Basque Solidarity (*Eusko Alkartasuna*) in 1993 and the Republican Left of Catalonia (*Esquerra Republicana de Catalunya*) in 1996 and 2000.

**Table 3: Use of elements of the first white paper presented by the PP in 1992 in other legal texts**

Popular Party-1992a Congress	Popular Party-1993 Congress	Basque Solidarity-1993 Basque Country	Popular Party-1994 Andalusia	Law of Andalusia 1995	Republican Left of Catalonia - 1996 and 2000 Catalonia	United Left-1996 Extremadura	Law of Extremadura 1996	United Left-1997 Congress	Mixed Group-1998 and 2000 Congress
Article 1 On the Issuers	verbatim	=	verbatim	verbatim	=	=	=	≠	≠
Article 1 Definition	verbatim	verbatim	verbatim	verbatim	verbatim	verbatim	verbatim	≠	≠
Article 1 On the Objectives	verbatim	=	verbatim	verbatim	≥	verbatim	verbatim	≠	≠
Article 2 Contracting Dissemination Non-discrimination	~	verbatim	almost verbatim	almost verbatim	verbatim	~	~	~	~
Article 3 Contracting Dissemination Objective criteria	~	~	almost verbatim	almost verbatim	verbatim	=	≠	=	=
Article 4 Contracting	verbatim	~	verbatim	verbatim	verbatim	verbatim	verbatim	=	=
Article 5 Practices to restrict the competition	verbatim	verbatim	verbatim	verbatim	verbatim	verbatim	verbatim	=	=
Article 6 Institutional Advertising and elections	≠	≠	≠	≠	=	≠	≠	≠	≠
Transitory provision	verbatim		=	=		=		=	=
1 <sup>st</sup> Final Provision National legislation	verbatim	≠	≠	≠	≠	≠	≠	≠	≠
2 <sup>nd</sup> Final Provision Coming into effect	verbatim	verbatim	verbatim	verbatim	verbatim	verbatim	≠	=	verbatim

Table 3 presents the coincidences between the first white paper presented by the Popular Party in 1992 and the various texts submitted during those years. The proposals made by the Mixed Group in 1998 and 2000 were grouped together because they are actually the same proposal presented on two occasions. The same applies to the white papers presented by the Republican Left of Catalonia in 1996 and 2000; with the exception that the latter includes a new transitory provision to establish that the forecasts of this law which implied an increase in expenditure would not be valid until the following financial year after its promulgation.

A first reading of the data contained in table 3 confirms that the only substantial differences refer to two aspects of the first white paper presented by the Popular Party in 1992: the national character of the proposed legislation and the restrictions established for the election periods.

In the Congress of Deputies the only group that proposed a law applicable to all the public administrations was the Popular Party in 1992a and 1993, although, years later, in the debate on the white paper presented by the United Left in 2000 (which exclusively aimed to regulate the advertising of the Federal Government Bodies) the PP's parliamentary representative objected to it, among other arguments, because:

“a national law on institutional advertising could collide, first of all, with the competences transferred to the autonomous communities [...]. The design of a supplementary law is the focus of parliaments and regional chambers of deputies where the issue should be addressed. The admissibility [...] would be even a little disrespectful towards the autonomous community and the jurisdictional power that has protected the Spanish Constitution” (DS-Congreso, nº 61)

The PP's representative, however, forgot that her group had been the only one to propose the national character of the regulation on institutional advertising.

On the other hand, the absolute prohibition on any type of institutional advertising during electoral periods, which was established in the PP's white paper of 1992a was dropped in the PP's white paper of 1993.

As we have seen, there are only two fundamental differences, while several articles are transcribed verbatim or almost verbatim in many other proposals.

A comparison between the columns of the table shows that the only proposals that are essentially different from the PP's white paper of 1992a are those presented by the United Left and the Mixed Group to the Congress.

The coincidences and similarities between the various initiatives of the PP are understandable (even, expected), with the characteristic differences of the scope in which they are presented (national or regional). The coincidences between the proposals presented by the Basque Solidarity and the Republican Left of Catalonia are more surprising.

But what is most striking is, without a doubt, the degree of coincidence between the first proposal and the laws of Andalusia and Extremadura, both promulgated in the name of the

King, by two Socialist Autonomous Presidents: Manuel Chaves González and Juan C. Rodríguez Ibarra, respectively.

The columns corresponding to the PP's white paper of 1994 and the Law of Andalusia are identical. This is because the law was passed thanks to the PP's white paper, which had the support of the other opposition groups and only the opposition of the PSOE Group, which only represented a minority majority. Since no amendment request was presented, the PP's white paper of 1994 became the first law of institutional advertising in Spain. And this white paper coincided almost entirely with the PP's white paper of 1992a.

The case of the Law of Extremadura is partly similar. It was also adopted after a white paper was submitted by an opposition group (United Left in 1996). The fundamental difference is that in this case the initial proposal was amended and approved after an intense debate which introduced various amendments to the initial text. The proposal of the United Left was very close to the PP's white paper of 1992a (and the law passed thanks to its support the previous year in Andalusia), with which it has more coincidences than with the final text of Extremadura, given the changes made during its parliamentary procedure.

Consequently, in both autonomous communities the regulation of institutional advertising not only ended up being adopted thanks to “the parliamentary minorities”, but also reproducing substantially the PP's white paper of 1992a, and for this reason this proposal, which represents an activity more typical of the legislative control and had been rejected in the Congress of Deputies, can be considered as a source-document for the regulation of institutional advertising in its first stage [15].

### **3.3.2. White papers on “institutional advertising”**

In the period under analysis three white papers “on institutional advertising” were presented at the Congress of Deputies: IU-1997, Mixed Group-1998, and Mixed Group-2000. We have already mentioned that these last two white papers are actually identical, but presented in two different occasions. Moreover, the first two white papers were debated jointly “because they were of identical content” (DS-Congreso, n° 240).

This is, therefore, a single white paper on institutional advertising, presented (with slight textual variations) on three separate occasions. And these white papers, as shown in table 3, depart greatly from the previous proposals.

Moreover, the first two proposals (IU-1997 and Mixed Group -1998) were signed by the same MP (Manuel Alcaraz Ramos), who was integrated in 1998 in the Mixed Group.

The Statement of Intent of these white papers considers institutional advertising as “the advertising issued by public bodies, commonly called institutional advertising”. Far from referring to advertising, as all the previous texts, as “any form of communication...”, they are the first white papers referring specifically to the advertising activity, even without defining it, by signalling the issuer of the advertising action as the differentiating feature of institutional advertising.

The *issuer* of institutional advertising in these white papers is “any organization dependant of the federal government, including autonomous agencies, public business bodies, state-level societies and, in general, the organizations included in the federal public sector (article 1).

In relation to the *objective* of institutional advertising, the white papers establish that it only refers to:

- a) Informing citizens of their legal rights and obligations.
- b) Reporting on the composition and activities of the institutions.
- c) Reporting on the services provided by the administration.
- d) Defending the existence of the Constitutional values and promoting the existence of habits that favour social coexistence and solidarity.
- e) Promoting the sale of goods or services [...], without breaching the rules of the General Law on Advertising (Ley 34/1988).
- f) Disseminating the image of Spain or its communities in other countries (article 2).

The white papers added the sections d) and f), in relation to the proposals of the PP Group, whose content appeared explicitly in the laws adopted afterwards (in terms that are appropriate to the scope of its application).

Article 3 prohibits certain forms of institutional advertising: those that violate the social, ideological, and political pluralism, those against the respect and dignity of persons, those considered illicit or unfair by the existing rules (especially the 1988 General Law on Advertising) [16], and those not included in the list of objectives.

Regarding the use of advertising during elections (from the start to the voting day) the white paper categorically prohibits the advertising related to paragraphs a), b), c) and d) in the general, European, or municipal elections, and “in the territories of the autonomous communities in their respective elections to the legislative chambers”. Taking into account the definition of issuer of the white paper (the federal government bodies), this would imply either an overreach (by extending the prohibition to municipalities, autonomous communities, etc.) or that the prohibition would affect, in the case of municipal and regional elections, the federal



government bodies but not the regional governments (and their dependent bodies), which according to the law would give place to a situation of inequality [17].

This presents two great innovations in comparison to the other white papers: the references to the establishment of a budgetary limit and the use of different languages.

Thus, in its article 5, the IU-1987 white paper (and the two white papers subsequently submitted by the Mixed Group) says:

1. In no case the advertising costs of a public institution or body can exceed 5% of its budget, except in cases of urgency that are authorized by a Ministerial order.
2. Institutional advertising expenses will be assigned in a specific share of the budgets of the institution.

Leaving aside the established limit and the fact it was the same for all cases, regardless of the scope and objective of the various bodies (which is debatable), the issue is relevant to the containment of public spending. But there is a second aspect that deserves our attention: the establishment of a limit on the expenditure and, above all, the obligation to disclose it in the budgets would imply the development of a plan for institutional advertising, which is an issue that was not addressed until 2005 in the Law on Advertising and Institutional Communication.

The point about the languages to be used in institutional campaigns (article 6) proposes two different situations (and solutions): “other languages” may be used in campaigns developed abroad, and those that “for the purpose of the information” require so; in the rest of the cases the texts “will be written in Spanish and the language that has been declared official in the autonomous community that will develop the advertising campaign”. In the words of the Deputy Alcaraz Ramos, this last approach is based on “a viewpoint which is also a defender of the Spanish Language and the inherent multilingualism of our multinational State”. This approach was not accepted by the representatives of the nationalist groups: the Basque Nationalist Party (*PNV*) disagreed because in its opinion the proposal did not meet “what linguistic co-official-ness should be”; and the Convergence and Union because it “imposes the use of Spanish in autonomous communities which have their own official language” (DS-Congreso, n° 240).

In short, the proposals put forward by United Left and the Mixed Group had some interesting elements (or at least worth discussing in the process of creating a possible law) and many points of coincidence with what we considered to be the source-document (the PP’s white paper of 1992a). And while some of the differences with respect to the source-document were only corrections or extensions, they were not taken into consideration precisely because of the position adopted by the Popular Group.

### 3.3.3. Other white papers

In 1992 the Popular Group submitted another white paper (Popular Party-1992b) aimed at reforming the Organic Law on the General Electoral System (*LOREG*) and the law regulating the campaign advertising on private television stations. The Popular Group wanted to reduce the duration of campaigns, to limit parties' campaign expenditure, to make obligatory for the state-owned media to organise debates between the various political forces, to lift the ban on the broadcasting of campaign ads on private television and, to "limit the cost and purpose of institutional campaigns" (Statement of Intent). To this end the Popular Group proposed the inclusion of the following paragraph in article 59 of the *LOREG*:

"1. The public authorities [...] can undertake an institutional campaign to inform citizens [...], without influencing, in any case, the direction of the voter. The cost of the campaign may not exceed the amount resulting from multiplying the number of inhabitants of the area where the election takes place by twelve pesetas" (article 1).

This proposal, thus, introduces the possibility of carrying out institutional campaigns that inform about the electoral process, which were prohibited in the PP's white paper of 1992a, and were considered as an exception to the general prohibition in PP's white paper of 1993.

It should also be noted that this proposal also coincides with the proposals put forward by the United Left to establish budgetary limits, although in this case limited only to the advertising issued during election campaigns.

## 4. Elements of the parliamentary debate

Since our goal is not to establish a full argumentative map (Renton, A. and Macintosh, A., 2007), we will outline some of the main arguments used during the sessions held to consider the five white papers. These sessions were held in September 1992 (to evaluate the PP's white paper of 1992a), February 1994 (to evaluate the PP's white paper of 1993), May 1999 (a joint debate on the white papers presented by the United Left and Mixed Group in 1997 and 1998, respectively), and February 2001 [18].

It is interesting, firstly and particularly, the controversy surrounding the opportunity to regulate institutional advertising. In this sense, Moreu (2005: 110-112) states the following reasons in support of the need for a specific rule:

1. The existence of a legal gap;
2. The urgency to properly define the purpose and contents of institutional advertising;

3. The need to set budgetary and procedural limits;
4. The desire to ensure the financing of the media through institutional advertising.

Moreu also noted that the most relevant reason to oppose the regulation, in addition to the reasons of competences, was its “uselessness”, since other sectoral laws already regulated all aspects of institutional advertising. This is, therefore, the denial of the first of the arguments in favour of the regulation.

Much of the debates revolved around the existence or not of a regulatory gap. In principle, it is understandable that there are divergent interpretations and opinions between the various parliamentary groups and even legal experts (Moreu, 2005). But the most significant thing is that, according to the analysis of the debates [19], the same parliamentary groups (especially the majority groups) made use of opposing arguments depending on the circumstances, as shown in table 4.

**Table 4: Existence of a legal gap**

	1992	1994	1999	2001
<b>Popular Party (PP)</b>	Yes	Yes	Not	Not
<b>PSOE</b>	Not	Not	Yes	Yes
<b>United Left (IU)</b>		Yes	Yes	Yes
<b>Mixed Group</b>		Yes	Yes	Yes
<b>Basque Nationalist Party (PNV)</b>			Yes	Yes
<b>Convergence and Union (CiU)</b>		Not	Not	Yes
<b>Canarian Coalition (CC)</b>		Yes	Not	

In 1992 and 1994 the Popular Group based its proposals in the absence of a specific legal regulation. However, in 1999 and 2001 it used the counterargument (its “uselessness”), and defended the thesis that institutional advertising was already sufficiently regulated through the Law of Contracts of the State, the General Law on Advertising, and other provisions.

The PSOE, for its part, made almost the opposite. In 1992 it argued that institutional advertising was already regulated by the Law of Contracts of the State; then in 1994 it recognised the inadequacy of the Law and announced its immediate reform; later in 1999 it did not acknowledge the legal gap, but did acknowledge the abuse of court process at the moment of supporting the initiatives of the United Left (1997) and the Mixed Group (1998); finally, in 2001 it justified its support for the proposal by arguing that such regulation was needed.

When involved in this debate, the United Left, the Mixed Group, and Basque Nationalist Party maintained the first argument; while Convergence and Union and the Canarian Coalition always used this argument or its corresponding counterargument.

It should be noted that the agreement on the need for regulation does not imply support for the proposals discussed. Thus, for example, in the debate of 1994 the United Left made use of the first argument but opposed the consideration of PP's white paper of 1993 on the grounds of fundamentally technical issues. The Basque Nationalist Party recognised that the Spanish legal system lacked specific legal tools "in this very important field" but did not consider valid the proposals discussed in 1999. However, in 2001 the Basque Nationalist Party ended up supporting the same proposal, which this time considered to be "correct and relevant".

Convergence and Union used the first counterargument to oppose the proposals debated in 1994 and 1999 [20], but in 2001 its representative (López de Lerma) defended the need to regulate institutional advertising. We must remember that in 2000 the *Law on Institutional Advertising* was enacted in Catalonia with a convergent government. Convergence and Union could not deny the need for a specific regulation because they had already adopted in their autonomous community.

The second argument (the need to define the purpose and contents of institutional advertising) also appears in the various debates, and is used mainly by opposition groups, with the main objective of avoiding the propagandistic use of institutional advertising by the party in power. They seemed to worry about the definition of the purpose of institutional advertising and the establishment of a mechanism to control the governmental actions.

With regards to the third argument (the need to set budgetary and procedural limits), we must differentiate between the two types of limitations. The procedures are closely linked to the first argument; hence the reiteration of the adequacy (or not) of the Law of Contracts, the General Law on Advertising, etc. The budgetary limits only appeared in the debates of the proposals of the IU and the Mixed Group (1999-2001).

The last argument pointed out by Moreu (the financing of the media through the institutional advertising) had certain relevance in some of the debates. Firstly, because it is the core of the proposals put forward by the PP, and secondly because of the complaints made, always from the opposition, about the arbitrary and discriminatory behaviour of the governments at the moment of adjudicating the institutional advertising. It is interesting that the openly liberal groups defended the importance (and therefore the necessity) of the public funding (through institutional campaigns) of the private media, of course, by arguing that the possible discrimination would represent a violation of the freedom of expression (of the media) and information (of citizens).

The fact that some autonomous communities (Andalusia, Extremadura and Catalonia) had adopted various laws on institutional advertising was used as an argument in favour of the regulation in the debates held in 1999 and 2001.

Among the arguments used to oppose the different proposals, it is worth mentioning that the argument of the distribution of competences was used, as expected, by the nationalist groups (the parliamentary groups of the Basque/Basque Nationalist Party and Catalan/Convergence and Union). Much more surprising is that in 2001 the PP's parliamentary representative, Mato Adrover, used this argument, as already mentioned, when the Popular Group was the only one to propose (in its two proposals) some regulations with national character.

In the debate of 1999 the PP pledged to reject the proposals of the opposition groups, to improve the laws in force, and to submit a Bill agreed by all the parliamentary groups [21]. All the solutions deny the first counterargument put forward by the party in power: that the institutional advertising was already sufficiently regulated.

We have already referred to the answers given by the nationalist groups to the proposal of the United Left and Mixed groups on the use of the co-official languages in the autonomous communities. But it is also interesting to mention that in the debates on the criteria of linguistic normalisation, in 1999, the parliamentary representative of Convergence and Union, Jané i Guasch, concluded that “what would be desirable is that, in the end, the one doing institutional advertising in a territory was the government of that territory”, which is a *sui generis* interpretation of the distribution of power.

An anti-regulation argument that appears repeatedly in the debates is the unsuitability of proposing the reforms to the regulation of the electoral process when the elections were so close. Given that elections were held virtually every year in Spain, it was (in response to this argument) extremely difficult to find the right time to address this necessary reform.

The technical deficiencies of the various white papers, which were used as arguments against them on several occasions, were justified with the argument that the proposal was a document subject to improvements in a subsequent debate, in case the white paper was accepted for processing and gave way to a bill, which did not happen -as we have seen- in any of the cases.

## 5. Conclusions

The analysis (although partial and necessarily brief) of the work of the political actors in the Congress of Deputies from 1992 to 2009 shows, firstly, that the interest of the Chambers of Deputies and the different political forces in institutional advertising was permanent and was manifested in an active exercise of the controlling and legislative functions (until the Law on Advertising and institutional communication was adopted in 2005) [22].

The analysis also confirmed the polyvalent character of some initiatives, so that certain white papers responded more to the controlling function than to the legislative function (legislative control).

The controlling function represents by far the greatest part of the parliamentary activity on the regulation of institutional advertising, as it increased markedly during the second parliamentary terms of the last two administrations.

In the 7<sup>th</sup> parliamentary term (the government of the PP) a set of questions (more than 90% of the total) was asked in the same parliamentary meeting. In the 9<sup>th</sup> parliamentary term (the government of the PSOE) multiple questions started to be used; on two occasions by the Popular Group. This interest of the main opposition groups in institutional advertising was more punctual (temporary?) than sustained.

The legislative initiatives always emerged from minority groups, with the exception of the Bill which was adopted in 2005.

The first two initiatives, which were presented by the PP and mainly aimed to control the government and denounce corruption, are basically the same initiative, although the second one included some changes that resulted from the first debate. Still, the content is essentially identical, just like the main arguments used in the two debates by the same parliamentary representative of the Popular Group. The PP wanted its initiatives to be applicable in all the Spanish territory.

The three white papers submitted by the Mixed and United Left groups are also essentially the same initiative, which is substantially different from the previous ones, including those presented in the various regional chambers. When they were presented the autonomous (regional) laws of Andalusia and Extremadura had already been adopted, and this was reflected in the parliamentary debates held to evaluate them.

The first white paper on institutional advertising, which was submitted by the PP in 1992a, was rejected like others and partially modified by the proponent group in its second version. However, it acquired great importance because it became the normative and textual basis for others initiatives presented in the regional parliaments of the Basque Country, Andalusia, Catalonia and Extremadura by different and distant political forces (Basque Solidarity, Republican Left of Catalonia, and United Left).

This same proposal was presented in the Parliament of Andalusia and adopted without changes, with the support of the rest of the opposition groups, and became Spain's first law on

institutional advertising. It was also taken as a model in many aspects by the proposal submitted by United Left to the Parliament of Extremadura, where it was also adopted, albeit with modifications.

Therefore, the PP's white paper of 1992 can be considered as the source-document for the regulation of institutional advertising in Spain.

On the other hand, it shows that the proposals of the minority forces are not inevitably condemned to failure and oblivion.

With regards to the arguments put forward in favour or against the need to regulate institutional advertising, we have verified that the performance of the main parliamentary groups responds mainly to situational factors, and involves the use of arguments and counterarguments depending on whether they support or oppose the government, which on occasions shows an absolute inconsistency.

Based on the distribution of powers between the Federal Government of Spain and the autonomous communities, the nationalist groups opposed the consideration of the different proposals. The PP did the same thing in the last debate (when it was in power), even though all of its proposals (made from the opposition) aimed to acquire a national character.

Finally, we can affirm that the analysis of the debates in the parliamentary arenas allows shedding light on various aspects of the law-making process, which is of great interest to the field of Political Communication and shows the undeniable utility of the *policy memory*.

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## 7. Notes

[1] Original emphasis in italics.

[2] They meet all the conditions of “the public arenas”: They address issues of public interest, do so in a clear and obvious way and have are open to examination (Rabotnikof, 2008).

[3] Original emphasis in italics.

[4] Given the objective of this study, and considering the nature of the second Chamber of the Senate, we have limited the analysis of the national level to the Congress of Deputies.

[5] During a time the PP maintained the double designation “advertising from the public sector” and “institutional advertising” in several of its white papers.

[6] The analysis of the initiatives presented during the 9<sup>th</sup> parliamentary term covers from 2007 to 10 February, 2010, the date of the last search.

[7] The total number of these initiatives and, above all, the presentation of these multiple questions, are a clear example of “quantitative over-dimensioning of the controlling function” (García Morillo, 1991: 135).

[8] If we consider them as independent questions, they would account for 95.02% of the total. Given that the difference does not seem substantial we will treat them as single questions, since this is how they were presented and formally accepted.

[9] According to Green-Pedersen (2009: 4), “Written questions, the vast majority in most countries, rarely receive much direct attention. However, this does not make them unattractive from the perspective of issue competition. The government response to written questions can provide the very ammunition required by opposition parties in mass media debates about political issues”.

[10] The following system was used to identify the white papers: Proponent Party-year (e.g. PP-1993). When the same parliamentary group presented more than one white paper on the same year, their order was identified with a lowercase letter after the year (e.g. PP-1992a, 1992b, etc.).

[11] Institutional advertising covers the four possible advertising modalities: social, political, corporate and commercial, so in our opinion what determines its specificity is not so much its objective or purpose, but its issuer: the subject of the advertising action (Feliu Albaladejo, 2009). Moreu (2005: 37, n. 7) has the same opinion with regards to institutional marketing and states that “the difference is in the subject that develops the public communication”.

[12] This is the fundamental difference between the texts of the two white papers that we are discussing, since the PP’s white paper of 1993 establishes three cases in which such suspension shall not apply.

[13] Although the same could be said of what the 1988 General Law on Advertising meant by advertising. In fact, it excludes both social and political advertising (which are considered in these texts when they talk about the promotion “of ideas”), as already pointed out by Feliu García, Martín Llaguno and Feliu Albaladejo (2001).

[14] In February 1992 the Bureau of the Parliament of Navarre agreed to process, at the request of the parliamentary group formed by the Mixed Group and the United Left, a white paper on institutional advertising, which would be, according to our data, the first white paper to be published (in the Official Gazette of Navarre on 13 February, 1992). We have not included, however, this white paper in this analysis because it is quite diverse in nature: is focused exclusively on the management of advertising spaces through the Press Office of the Department of the Interior or the Presidency.

[15] Three stages in the evolution of the regulation can be established: the first would cover from the origins (1992) until the promulgation of the first regional laws (1996); the second (1996-2005), about the development of the regional provisions, would include the laws of Andalusia (1999 and 2005), Catalonia (2000), Valencia (2003), and Aragon (2003); the third would begin with the Law on Advertising and Institutional Communication (2005) and would include as the latest innovations, among others, the Law of Castile and León (2009) and the Bill presented in the Parliament of the Balearic Islands (2010).

[16] We should remember that the General Law on Advertising only regulates commercial advertising, based on the definition of advertising provided in its second article, which is why it would only apply to section e) of the purposes of this white paper. See Feliu García, Martín Llaguno and Feliu Albaladejo (2001).

[17] For example, if this regulation, whose only subject is the national government, were adopted and the autonomous community of Madrid called to elections, the federal government would not be allowed to develop institutional advertising about the budgetary assignments, but the autonomous/regional government (and its dependent bodies) would be allowed, despite being the one calling for the elections.

[18] References to the year of the debate are made here for the sake of clarity and because of the references they make about the legislative progresses made in other parliamentary chambers.

[19] The analysis of the debate about the evaluation of the PP's white paper of 1992 only contains a summary of the first interventions of the representatives of the PP and PSOE groups (Ramallo García and Perales Pizarro, respectively), and does not even include the replies and counterclaims, which are only referred to (the same occurs with the interventions of the representatives of the other groups "to establish positions"). In the rest of the debates the interventions of the deputies are reproduced verbatim.

[20] López de Lerma (the spokesman of Convergence and Union in 1994) appealed that the "principle of legislative savings" is imposed when the supposedly new regulations bring nothing new.

[21] This pledge was not fulfilled as it was revealed by the criticisms directed at the representative of the PP group in the debate of 2001.

[22] If we take into account the data on the various regional chambers, we can affirm that legislative initiatives have been presented every year since 1992.

[Additional note] We must bear in mind that after the writing of this work, the last amendment to the LOREG was approved –on 29 January 2011–, which establishes new restrictions to the communications of the public administrations during elections.

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