

ANNA GRUHN

*Complaints (2007–2008) to Polish Advertising Council (Rada Reklamy)
as an expression of consumer democracy*

KEY WORDS

civic society, consumer democracy (consumer sovereignty), self-regulation, Polish Advertising Council, complaint on an advertisement, consumer, prosumer

ABSTRACT

This article is an attempt to evaluate the phenomenon of filing complaints on advertisements to the Polish Advertising Council (Rada Reklamy) between 2007–2008. This kind of communication activity, facilitated by the development of the internet, may be considered an expression of the concept of consumer democracy, and, in a broader sense, of civic society. The arguments were based on a content analysis and a sociological analysis of the complainants (person filing a complaint, sex and place of living). The author also considers the applicability of the notion of prosumer in the analysis.

In the debate on Polish civic society there is a discussion not only regarding the essence of the term but whether it is a postulative or descriptive concept. This article will most likely deliver arguments for the proponents of the latter. The goal, however, is not to have definition deliberations¹ dominate content but on the other hand its omission could result in superficial assessment. It should be noted that civic society can be described in the sphere of collective activity fulfilled through non-government organizations, associations and volunteer work somewhere in between the state and the market². Often, it means artificial division of activity in the public area from strictly market activity³. In this article, used is a broad understanding of civic society, including not just activity in various non-government organizations but

¹ P. Ogrodziński, *Pięć tekstów o społeczeństwie obywatelskim*, Warszawa 1991; *Leksykon politologii*, ed. A. Antoszewski, R. Herbut, Wrocław 2002.

² Ministry of Labour and Public Policy website: www.mpips.gov.pl/index.php?gid=634 [accessed: 3.12.2009].

³ Problematic is the fact that it is the state which regulates the activity of various non-government and voluntary associations, cf. Ustawa z dnia 24 kwietnia 2003 r. o działalności pożytku publicznego i o wolontariacie [Act of 24 April 2003 on public benefit and volunteer work], Dz.U. 2003, No. 96, pos. 873 with changes.

individual activity in all spheres, not excluding market activity. Meanwhile, consumer democracy is an economic term meaning a political/economic system in which consumers decide whether a given product or service meets their needs and, thus, whether it will survive on the market. In this system, consumers “vote” with their wallets⁴. Consumer democracy is also an element of civic society activity.

A specific indicator of communicative market activity, imperative socially but also very controversial, is advertising. Citizen reactions to various advertising broadcasts are just one indicator of consumer democracy. This article will analyse consumer complaints on advertisements to the self-regulating institution in the advertising industry which allows consumers to express their opinions.

Regulation of the advertising market in Poland

As mentioned above, advertising activity can be very controversial. Most often, it is controversy of aesthetic or ethical nature which leads us to the issue of regulation of this market. All in all, there are four subjects which can intervene in this area: the state, the advertising industry, media and citizens.

Table 1. Main regulatory bodies of the advertising market in Poland

Subject	State	Advertising industry employees, advertising agency employers,	Mass media, journalists	Citizens – Consumers
Means of regulation	law (European jurisdiction, constitution, acts, regulations)	self-regulation (Polish Advertising Council, Advertising Ethics Code)	- media intervention, - critical publications - exposing publications, - rankings.	- complaints - consumer boycott

Source: By author.

⁴ Cf. L. von Mises, *Interwencjonizm [Interventionism. An economic analysis]*, 2nd ed., Kraków 2005, p. 15). It is the so called consumer sovereignty which decides whether we are dealing with consumer democracy, “Manufacturers, farmers and capitalists do not decide what is to be produced but consumers do. If producers do not carry out society’s orders transmitted via market price structures, they incur losses, go bankrupt and cease to control the market. [...] Every penny spent by consumers influences the direction of all production processes as well as any market activity. [...] every penny is like an election vote”. (L. von Mises, *Ludzkie dzialanie. Traktat o ekonomii [Human action. A treatise on economic]*, Warszawa 2007, p. 234–235). For criticism of the concept of consumer sovereignty and consumer democracy see: M.N. Rothbard, *Man, economy, and state with Power and market: government and economy [Ekonomia wolnego rynku. Wykład akademicki]*, 2nd ed., Auburn, Ala. 2004.

Of course, these activities by various subjects overlap, i.e. citizens can come up with a legislative initiative or they can file complaints to the self-regulating advertising board. Additionally, in the age of the so called civic journalism, more and more often there are problems with implementing clear differentiations between professional journalists and active in this field citizens. Most active in this area is the state, however, it should be noted that there is not one act which covers the entire broad field of advertising⁵.

Legal regulation is generally not able to keep up with the development of technology and advertising techniques. Hence, it is imperative that in democratic systems supplementary to legal regulation is self-regulation. In Poland, this organ is, since 1997, the Rada Reklamy (Polish Advertising Council). The idea of self-regulation means that norms and rules of behaviour in a given industry are created by the people from that circle, independent of the state. In case of advertising, they are subjects directly tied to the advertising market and also making profits from it. Of course, such a system is questionable as far as effectiveness and ethics since not abiding by the rules does not mean legal consequences, unless the subject also violated another specific regulation (i.e. Pharmaceutical law). There is, however, the risk of advertising environment sanctions. It is in the interest of the advertising industry, including agencies and media organizations which publish or broadcast advertising to follow high ethical and aesthetic standards. On the other hand, state institutions are not necessarily more

⁵ Cf. Ustawa z dnia 31 marca 2000 r. o zmianie ustawy o radiofonii i telewizji i ustawy o języku polskim [Act of 31 March 2000 on change to the Act on radio and television and the Act on Polish language], "Dziennik Ustaw" [Journal of Laws of the Republic of Poland – Dz.U.] 2000, No. 29, pos. 358; Ustawa z dnia 16 lutego 2007 r. o ochronie konkurencji i konsumentów [Act of 16 February 2007 on competition and consumer protection], Dz.U. 2007, No. 50, pos. 331, changes: No. 99, pos. 660; Ustawa z dnia 23 sierpnia 2007 r. o przeciwdziałaniu nieuczciwym praktykom rynkowym [Act of 23 August 2007 on combating unfair commercial practices], Dz.U. 2007, No. 171, pos. 1206; Ustawa z dnia 16 kwietnia 1993 r. o zwalczaniu nieuczciwej konkurencji (tekst ujednolicony) [Act of 16 April 1993 on combating unfair competition], Dz.U. 2003, No. 153, pos. 1503; Ustawa z dnia 11 stycznia 2001 r. o substancjach i preparatach chemicznych [Act of 11 January 2001 on chemical substances and preparations], Dz.U. 2001, No. 11, pos. 84, art. 30; Ustawa z 29 lipca 2005 r. o przeciwdziałaniu narkomanii [Act of 29 July 2005 on counteracting drug addiction], Dz.U. 2005, No. 179, pos. 1485, art. 20; Ustawa z dnia 16 kwietnia 2004 r. o ochronie przyrody [Act of 16 April 2004 on the protection of nature], Dz.U. 2004, No. 92, pos. 880; Ustawa z dnia 27 kwietnia 2001 r. Prawo ochrony środowiska [Act of 27 April 2001 Environmental protection law], Dz.U. 2001, No. 62, pos. 627; Ustawa z dnia 9 listopada 1995 r. o ochronie zdrowia przed następstwami używania tytoniu i wyrobów tytoniowych [Act of 9 November 1995 on the protection of public health against the effects of tobacco use], Dz.U. 1996, No. 10, pos. 55; Ustawa z dnia 25 sierpnia 2006 r. o bezpieczeństwie żywności i żywienia [Act of 25 August 2006 on food safety and nutrition], Dz.U. 2006, No. 171, pos. 1225. Aside from the above mentioned legal acts, there are other acts which also influence advertising such as i.e. ustawa Prawo farmaceutyczne [Act on Pharmaceutical law] which regulates advertising of medicine or the Ustawa z dnia 26 października 1982 r. o wychowaniu w trzeźwości i przeciwdziałaniu alkoholizmowi [Act of 26 October 1982 on upbringing in sobriety and counteracting alcoholism], Dz.U. 2007, No. 70, pos. 473, with strict guidelines on advertising alcohol. Poland is also obliged to follow Directive 2006/114/EC of The European Parliament and of The Council of 12 December 2006 concerning misleading and comparative advertising, OJ L.06.376.21.

effective in enforcing the law. Lastly, there are consumers themselves who can protest against outrageous advertising practices. One such way is consumer boycott which means not buying a given product or brand name. On a large scale, it could lead to decreasing sales which would seem to be a most effective signal to producers who decided to create such a controversial advertisement⁶.

Rada Reklamy (RR) – a Polish self-regulation institution

The Rada Reklamy is an organization created by advertising market subjects (industry employers and employees and representatives of media organizations). It is a self regulating organization with a goal to increase marketing communication standards, to promote good models and revile unethical and dishonest advertisements⁷. Initially, RR acted as an intermediary in disputes between companies, however, there was not much demand for that. Since 2006, it belongs to the European Advertising Standards Alliance (EASA) which means that there is the possibility of consumers filing complaints to the RR, just like it takes place in other EU countries. This has resulted in increased interest in its activity and the number of complaints filed (Table 6)⁸.

The Rada Reklamy guarding advertising standards acts two ways – it delineates advertising standards in Poland (included in the Advertising Ethics Code, KER) and acts as a prevention mechanism. Anyone interested (not just people from the industry) has access to the Code, available on the RR Internet website. RR's preventive activity includes the so called *copy advice* or the opportunity to check advertising text (*copy*) before it is published or broadcasted. Of course, this activity, as well as abiding by KER rules is not subject to legal regulation; it is strictly voluntary.

In Poland, surprisingly, in view of restrictive regulation regarding advertising of alcoholic drinks⁹ and in contrast to other EASA member organizations, the advertising agent

⁶ Decreasing profits are also experienced by media which broadcast such advertising and advertising agencies which produced them. Moreover, it can result in some media refusing to show such campaigns. It should be noted that we can only estimate potential losses, as specialist research results on sales and the correlation between advertising and level of sales are not made public. Nevertheless, even such research is not entirely credible, in case of certain forms of promotion i.e. the so called partisan marketing (for more on this see J.C. Levinson, *Marketing partyzancki [Guerrilla marketing excellence. The fifty golden rules for small-business success]*, Warszawa 1998) there are no tools for measurement. Advertising, of course, is not the only factor which influences the level of sales. It could also be as a result of decreasing quality of product or service in the eyes of consumers.

⁷ Rady Reklamy website: www.radareklamy.org/rada-reklamy.htm [accessed: 2.10.2009].

⁸ In 2007 there were 92, in 2008 – 435, and in 2009 – 630.

⁹ Cf. Ustawa z dnia 26 października 1982 r. o wychowaniu w trzeźwości i przeciwdziałaniu alkoholizmowi [Act of 26 October 1982 on upbringing in sobriety and counteracting alcoholism], Dz.U. 2007, No. 70, pos. 473. In Poland, it is prohibited to advertise alcohol on TV and radio. Beer is an exception and it can be advertised in

is not obliged to present to the RR for acceptance the final version of advertising material (as is the case in some other EU member countries)¹⁰. This means that the RR does not check the final version of the advertisement (not just its text but also graphics) before it is published or broadcasted but can only react afterwards, by a resolution of the Advertising Ethics Commission. The Commission can propose a resolution on its own or as a result of a consumer or company complaint. Complaints are filed by filling out a form available on the website, sending an e-mail or a fax. Filing a private consumer complaint is free of charge while a company must pay a fee. Aside from personal information (name, sex, place of living and contact information), the complainant has to state the type of advertisement (based on categories listed), the date of its publication/transmission and the reason for the complaint. Complaints which meet procedural requirements are then investigated individually and together with others regarding the same subject by the Advertising Ethics Commission which includes a wide range of marketing specialists (representatives of advertising agencies, large companies, journalists and academics from the field). Both, the complainant and the subject of the complaint are allowed to present their case which the Commission then deliberates on. Advertising agencies generally do not ignore complaints and are present during these sessions. The Commission decision is then published within a week on the Internet website. In the end, both sides can appeal the decision to the RR or to EASA.

RR's daily activity is generally not the subject of media interest. However, summary reports of its annual activity (including number of complaints filed as well as the resulting resolutions) are published in advertising industry press and on Internet portals¹¹. There is also information on complaints filed and investigated on in various publications, hence there may be some differences as far as statistics between those works and this article. It should be noted that complaints not examined by the RR are also an indicator of civic activity and can result in the creation of negative image of a given agency or company, such as was the case with the 2008 House advertising campaign.

press and electronic media. It is also prohibited to broadcast that alcohol producers are sponsors of events. Direct advertising is possible only in places which sell alcohol (in special sections of supermarkets and in specialist stores).

¹⁰ For example, in Ireland and Holland (on radio and TV) regarding alcohol advertising, in Italy – regarding over the counter medicine (all advertising aside from TV), in France and Great Britain – all TV commercials. Based on www.easa-alliance.org/About-SR/Pre-clearance/page.aspx/27 [accessed: 2.10.2009].

¹¹ Cf. www.kreatura.pl/forum/topics/1286550:Topic:10443; <http://wiadomosci.mediaryn.pl/news/30432>, Rada_Reklamy_miala_w_2008_r._wiecej_pracy,tagi_Rada_Reklamy,group2; <http://gospodarka.gazeta.pl/Gospodarka/1,69806,4987563.html>.

Research methodology

The research material includes all RR consumer complaints between 2007–2008 (527 in total), including also those which were rejected for procedural reasons. Research methods used in this work include complaint content analysis as well as complainant's sociological analysis. The following research categories were used: advertisement medium (TV, radio, Internet, billboard, etc.), complainant (individuals, companies, institutions), sex, place of living, object and reason for complaint as well as appeals to legal regulation and specific acts.

In most cases it was possible to compare the data from the different years, however, not in all i.e. the *complaint object* since in most cases they were not the same or *complaint reason* since they were individual as well.

2007 complaint analysis

In 2007, the second year of RR activity, there were 92 complaints filed.

Advertisement by medium

Undoubtedly, most complaints filed regarded TV commercials¹² (65%). The percentages per medium are further illustrated in chart 1.

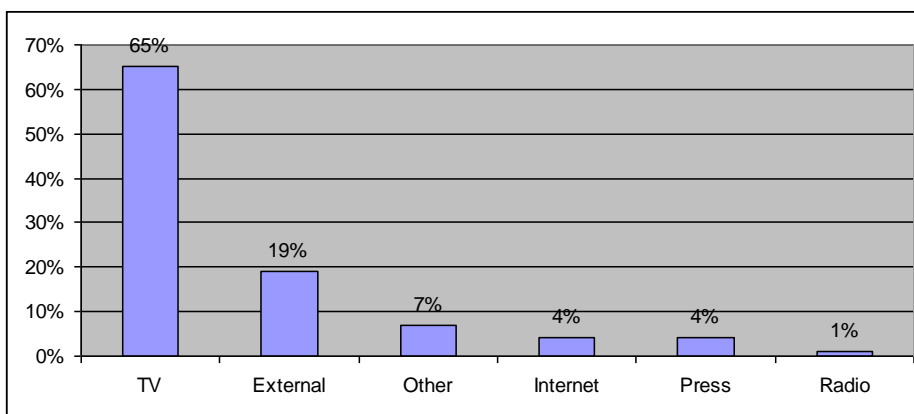


Chart 1. Percentages of complaints filed by medium, data from 2007

In second place were complaints about exterior advertising (19%), 4% of complaints regarded the Internet and the press and least were filed against radio commercials (1%). The 'other' category, including different types of direct advertising such as *direct mailing* (sent to

¹² RR classification of advertising is based on the place of its place of publication, cf. M. Mrozowski, *Media masowe. Władza, rozrywka, biznes*, Warszawa 2001, p. 81.

the home), leaflets, POS (*point-of-sale*, including stores, shop windows, shelves, buses, etc) obtained 7% of all complaints. The above were put into one category as there were not enough complaints to make each a separate one. The above subcategories were not delineated by the RR but by complainants themselves who had to precisely describe the type of advertising. It should be noted that consumers are well oriented in different types of advertising and they correctly use genre terminology.

Complainant characterisation

The research included a characterization of who filed the complaint, whether it was an institution or an individual, the sex and place of living.

■ Private individual/institution

Among the complainants dominant were private individuals (88 complaints). There were only four institutions who decided to file: Polish Association of Branded Goods Manufactures ProMarka, Office of Competition and Consumer Protection (Branch Office in Wroclaw), National Broadcasting Council and Viva! International Voice for Arnimals. The percentages are illustrated in chart 2.

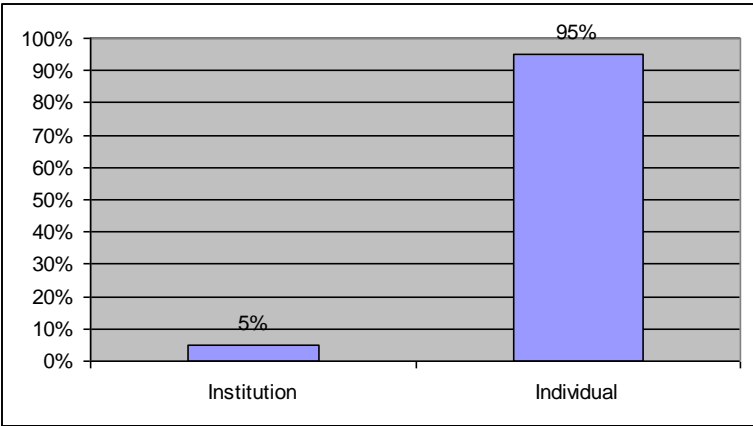


Chart 2. Complaints per subject (in percentages)

■ Sex

Among the complainants, the majority were women (66%) while the men comprised 34% of total (chart 3).

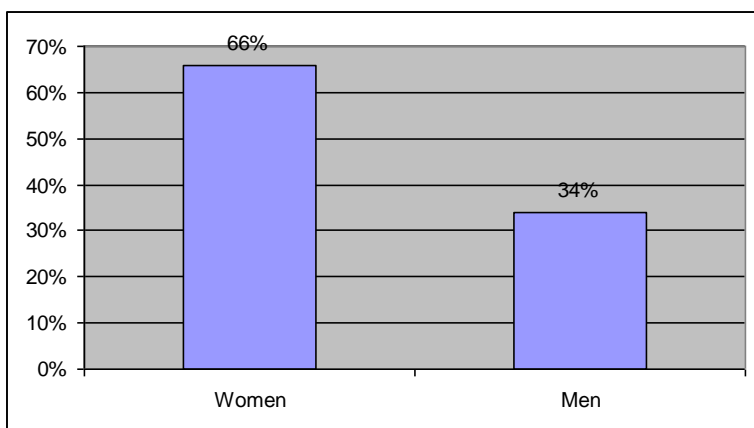


Chart 3. Complaints by sex (in percentages)

■ Place of living

Not surprisingly, the majority of complainants live in large cities (over 300 000 inhabitants) including the capital (26 complaints). One reason for that is that they also have the best access to the Internet¹³. The second largest group of complainants (21%) live in villages. In third and fourth place are complainants who come from towns (up to 100 000 inhabitants) and medium cities (100 000–300 000) as illustrated in chart 4.

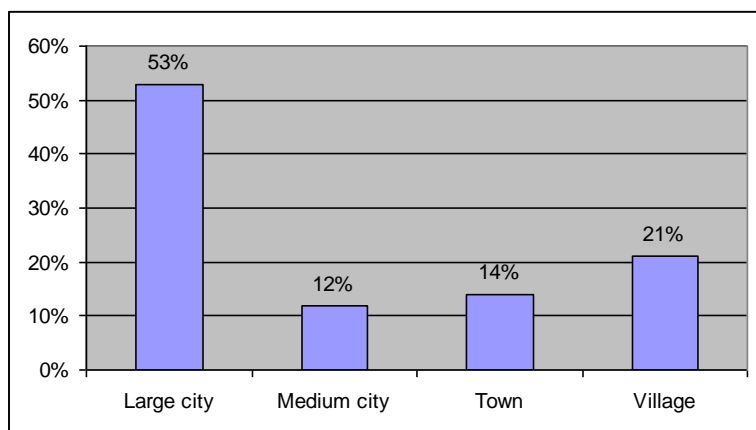


Chart 4. Complainants by place of living

¹³ According to GUS data from 2008, 59% of households own computers, 48% have access to the Internet of which 38% have broadband access. Also, 98% of companies have Internet access. Data from *Wykorzystanie technologii informacyjno-telekomunikacyjnych w przedsiębiorstwach, gospodarstwach domowych i przez osoby prywatne w 2008 r.*, www.stat.gov.pl/gus/5840_3730_PLK_HTML.htm [accessed: 2.10.2009].

Based on the above information, the average person filing complaints is a woman from a large city, most likely from Warsaw.

Complaint characterization – subject and reason

The next category researched was the subject and the reason for the complaint. This analysis enabled us to make conclusions as far as consumers' legal consciousness.

■ Complaint subject

Analysis of complaints filed allowed us to make a list of the most controversial advertising campaigns. Table 2 shows the brands, the number of complaints filed and percentages of total complaints filed in 2007 to Rada Reklamy.

Table 2. Complaints by brand

Brand	Number of complaints (in %)	Number of complaints
Other	29	27
Play	18	16
Red Bull	12	11
Croptown	9	8
Axe	6	5
Mediamarkt	5	5
Dog in the Fog	4	4
Harnaś	4	4
Actimel	2	2
Halls	2	2
TFI	2	2
Polomarket	1	1
Luksja	1	1

Most controversial in 2007 was the mobile phone Play¹⁴ (18%) advertising campaign, a company which debuted on the market that year. In second place, with 13% complaints, was

¹⁴ The Brain advertising agency which created Play's advertising campaign made available data which shows that Play's debut on the market, despite the controversy not only among consumers but also in the industry (cf. www.marketing-news.pl/theme.php?art=564) was successful. Between April 2007, when the first billboards

the energy drink Red Bull campaign while in third place it was Cropptown clothing (9%) advertisements. Following and not surprisingly were Axe (deodorant for men) and MediaMarkt, both known for controversial, although for different reasons, advertising campaigns. The remaining 30% were isolated complaints about various other brands (including a campaign promoting Cracow jubilee celebrations or the Lech beer campaign).

■ Complaints by reason

Table 3 presents a general list of complaint reasons as presented to the RR. The most popular reason for protest according to consumers was the commercials' bad influence on children or teenagers (12% of total). Next on the list was unethical nature of the advertisement (10%) and offense to religious beliefs (9%). The latter particularly regarded complaints about Red Bull's commercials. Moreover, according to consumers, 8% of advertisements infringed specific legal regulation.

Table 3. Complaints by reason

were out, and January 2008 Play gained 1mln clients. Also, the ARPU – *average revenue per user* was higher than the average by 60%. Cf. www.brain.com.pl/#/clients/play. The campaign also won a prize, the silver Effie, for launching the company on the market. Effie is awarded for financial gains and treated as the most authoritative award. It was not the first time when controversial campaigns turned out to be very effective. Cited from: www.effie.pl/article/155/nagrody_2008.

Reason for complaint	Number of complaints	Number of complaints (in %)
It has a bad influence on children/teenagers	17	12
It is unethical	14	10
It is offensive to religious beliefs	13	9
It is misleading	13	9
It infringes the law	11	8
It infringes animal rights	9	7
It is broadcasted at the wrong time	8	6
It is indecent	7	6
It is sexist	7	5
It is unaesthetic	6	4
It discriminates women and treats them like objects	5	4
It discriminates and ridicules sick people	5	4
It provokes behaviour unacceptable socially	4	3
It is frightening	4	3
It humiliates older people	3	2
It ridicules certain professions	3	2
It is shocking	2	1
It is bothersome	2	1
It takes advantage of children	2	1
It incites aggression	1	1
It is controversial	1	1
It suggests that competition's products are not as good	1	1

In 7% of cases, the reason for complaint was infringement of animal rights, mainly in relation to the Cropptown campaign¹⁵ and to the Harnaś beer TV spot in which a mountaineer first saves a sheep and then bakes it on the bonfire. In this case, consumers emphasized that the commercial not only breaches animal rights but also propagates a cynical approach to life. The Play advertising campaign also received some heat for infringing animal rights in relation to its controversial broadcast means (chef baking a dog). A relatively large number of complainants (6% of total) are of the opinion that some commercials are broadcasted too early and, hence, are viewed by children and teenagers. Improper transmission time, according to complainants, can impose the wrong ethical and aesthetic models on the young audience. This is an important message, although the RR cannot do anything about it as it does not regulate commercial broadcast times. In 5% of cases, the commercials were considered sexist while another 4% was of the opinion that they discriminate women. These accusations were mainly

¹⁵ The company advertised its products by showing copulating animals or animals cut in half. The campaign was mostly present on billboards and the Internet. It was the "Viva" Foundation for Animals which brought attention to the matter and encouraged people to protest against such campaigns, making available a model protest letter, see www.viva.org.pl/index.php?id=19&backPID=19&tt_news=188&cHash=4f980c237e.

regarding the Axe deodorant advertising campaign. More detailed information on complaint reasons is listed in Table 3.

■ References to legal regulation

Complaint reason analysis enables us to make some conclusions regarding people's legal consciousness as 54% of complaints included references to particular legal regulation. The remaining 46% refer to the Advertising Ethics Code (chart 5). Consumers often cited specific Code regulation, i.e. art. 6 which states, "Unless there is a justified necessity caused by, for example, social or prophylactic reasons, advertising may not motivate consumers to buy a product by making use of fate or inciting fear and anxiety, or art. 25, "Advertising targeting children or teenagers has to take into account the level of their development and cannot be a threat to their further physical, psychological or moral development"¹⁶.

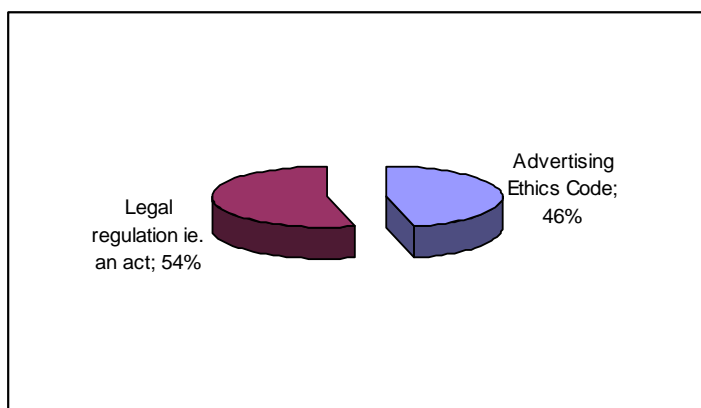


Chart 5. References to legal regulation (in %)

Generally, consumers correctly identified those legal regulations which, according to them, were infringed. Only in one case there was a reference to a no longer existent act against unfair advertising (chart 6). The complaint, nevertheless, was taken into consideration because even such is an example of citizen activity, although not of legal consciousness (meaning knowing of the existence of legal regulation on a given matter). Most complaints (4) regarded breaching animal rights. This is not surprising in view of the large number of complaints against the Croptown commercial (cf. Table 2) of which only two included a reference to specific legal regulation. The rest referred to general acts. Moreover, noted were also two references to the Constitution, the Act on combating unfair competition and the Act

¹⁶ *Kodeks Etyki Reklamowej*, www.radareklamowej.org/jednolity-tekst-kodeks-etyki-reklamowej.htm.

on tourism services. The table also includes references to the Act on upbringing in sobriety and counteracting alcoholism, the Pharmaceutical law, the Act on radio and television, the Petty Offences' Code and the Act on food safety and nutrition. Most of these acts to a degree regulate the advertising market in Poland (cf. footnote 5).

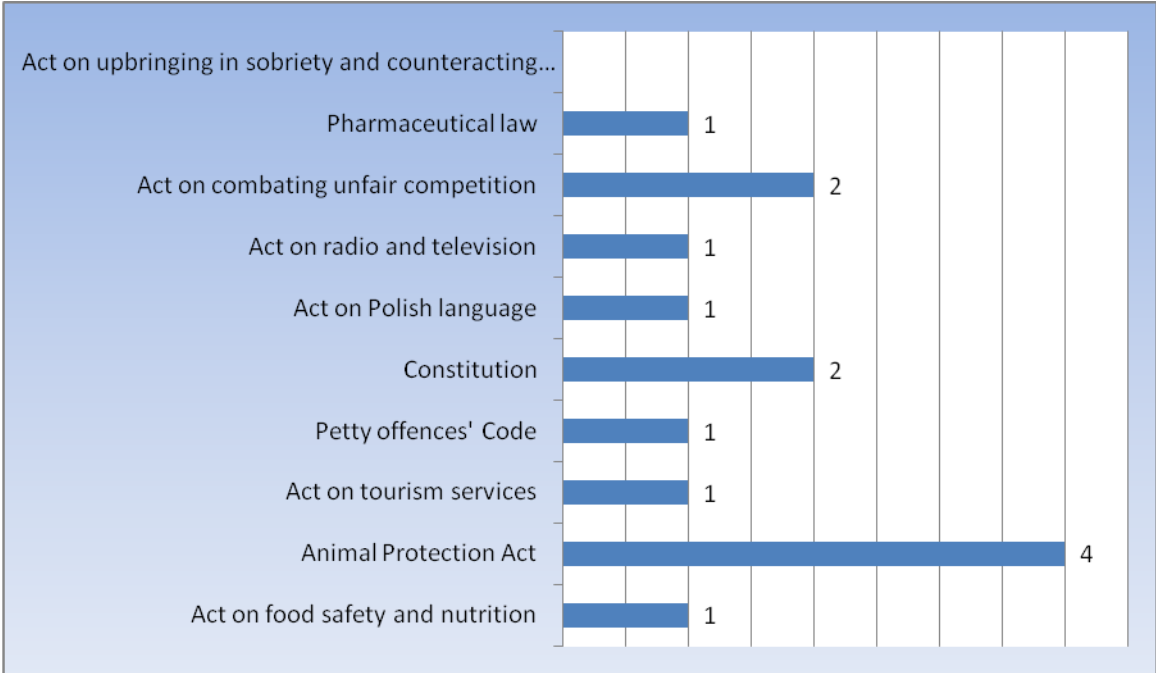


Chart 6. Complaints by reference to specific legal regulation

The seventeen complaints which included references to specific legal acts comprised 18.5% of total complaints. This result enables us to come to the conclusion that there is certain level of legal consciousness among the complainants. So as to answer the question whether it is a permanent tendency, a comparison of complaints from 2008 is in order.

Complaints to RR in 2008

In 2008, noted was a considerable increase in the number of complaints filed – 435 in total or four times more than in 2007, even though a large number of them did not meet procedural requirements.

Complaints by medium

In 2008, the majority of complaints (55%) regarded exterior advertising. In second place (19%) were TV commercials while in third (16%) it was Internet advertising. A small percentage of total went to radio and press (2% and 3% correspondingly).

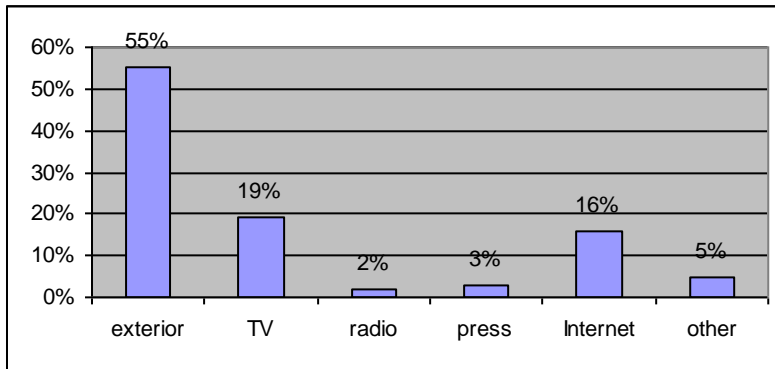


Chart 7. Percentages of complaints filed by medium, data from 2008

Direct advertising was the cause of only 5% of complaints, for this reason, just like in 2007, its different categories are not shown in the chart.

Consumer characterisation

Similarly to 2007, the initial characterization regarded who filed the complaint, whether it was an institution or an individual, the sex and place of living.

■ Private individual/institution/company

Just like in 2007, in 2008 dominant were complaints by private individuals, nearly 98% and only 2% were filed by institutions. Chart 8 shows one other complainant this time – advertising agency employer, although statistically it is not a significant percentage (roughly about 0.5%, or one complaint). It should be noted that the RR is not an authority to which agency employers should appeal when there is a default on conditions of the contract. Nevertheless, it is sign of activity, despite the fact that the instance was chosen incorrectly.

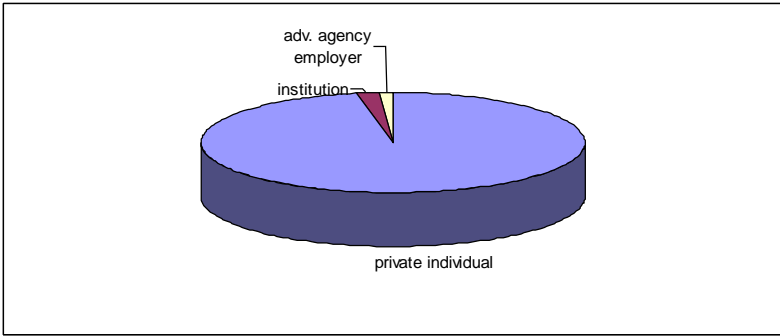


Chart 8. Complaints per subject (in %)

■ Sex

In 2008, there was roughly about the same number of complaints by men and women (chart 9).

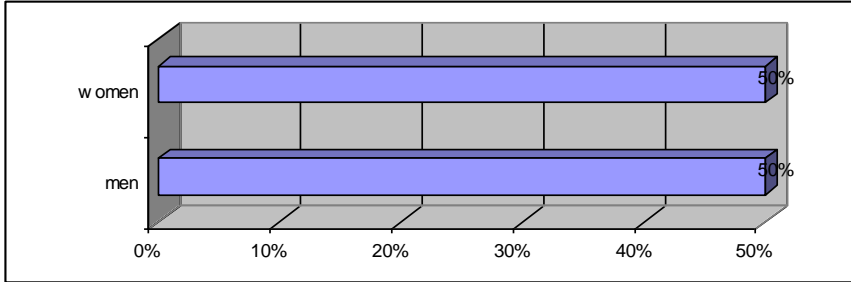


Chart 9. Complaints by sex (in %)

■ Place of living

Similarly to 2007, the majority of complainants (63%) were from large cities, in second place were those from villages (15%), while the percentages for medium cities and towns were estimated at 12% and 10% correspondingly. Among inhabitants of large cities, just like the year before, the majority (115 complaints) were from Warsaw (chart 10).

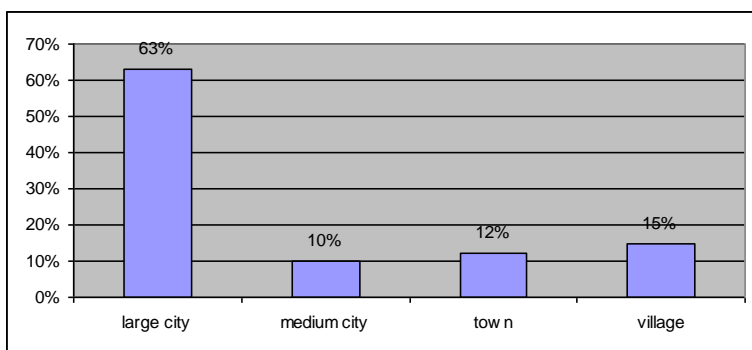


Chart 10. Complaints by place of living

Complaint characterization

Similarly to 2007, the focus was on the subject of the complaint and the argumentation used by the complainants as well as their legal consciousness.

■ Complaint subject

Undoubtedly, House clothing was the most controversial advertising campaign in 2008, with 269 complaints out of 427, or 63% of total (Table 4).

Table 4. Complaints by brand

Brand	Number of complaints	Number of complaints in %
House	269	63
Other	67	16
Mobilking	36	8
Film <i>Frontière(s)</i>	8	2
Link4	6	2
Roxy FM	6	1
Mediamarkt	4	1
Play	4	1
Polbank EFG	4	1
ING	3	1
mBank	3	1
CKM	3	1
Snickers	2	0
Tapety na papla.pl	2	0
Radio Eska	2	0

AmbiPur Car	2	0
Flavamed	2	0
Film <i>Pila</i>	2	0
Woda Arctic	2	0

In second place, with 36 complaints (8%) was the Mobilking advertising campaign, while in third, with 8 complaints (2%) it was the *Frontière(s)* film promotion campaign. There was also a large number, 67 or 16% of total, of single complaints. Among the more controversial brands was Cropptown but also there were complaints against “Gazeta Wyborcza”, portal.zumit.pl and Radio RMF FM. In 2008, between two and six complaints, or less than 1%, received brands such as mBank, Radio Eska, Radio Roxy FM or ING Bank Śląski.

■ Complaint by reason

As many as 35% of complaints were considered offensive to Poles’ religious beliefs. This was largely as a result of the House “Virginity” clothing campaign, which gained the highest number of complaints and was also widely commented on by the media¹⁷. Probably because of this campaign there was also an increased number of complaints which were considered as having a bad influence on children (11%). Additionally, many consumers regarded advertisements as indecent or obscene (likely House), discriminating women and misleading, with the above reasons each obtaining 7% of votes. Table 5 includes a list of all complaint reasons. What can be observed below are new categories or reasons for complaints such as discrimination of men (1%), harmful to the image of people portrayed in the commercial (1%), resulting in personal loss (less than 1%).

Table 5. Complaints by reason in 2008

Complaint reason	Number of complaints	Number of complaints (in %)
It is offensive to religious beliefs	250	35
It has a bad influence on children/teenagers	77	11
It is indecent or obscene	53	7
It discriminates women and treats them like objects	51	7

¹⁷ Internet economic portal of gazeta.pl: <http://gospodarka.gazeta.pl/gospodarka/1,33181,4987563.html>; Serwis Mediarun: http://wiadomosci.mediarun.pl/news/26348,House_przeprasza_urazonych_idea_dziewictwa,group2

It is misleading	47	7
It infringes the law	40	6
It is unethical	26	4
It promotes social stereotypes	19	3
It is sexist	18	3
It is irritating/annoying	17	2
It should not be placed in places where it is exposed to children	16	2
It promotes socially unacceptable behavior (i.e. pornography, dishonesty, corruption, etc.)	14	2
It is frightening	12	2
It incites aggression	11	2
It is unaesthetic	10	1
It discriminates men	10	1
It is controversial	7	1
It is harmful to the image of people portrayed, who may later be associated with the commercial	7	1
It is drastic and brutal	6	1
It is shocking	5	1
It directly suggests that competitive products are worse (unfair competition)	5	1
It discriminates and ridicules sick people	4	1
It promotes activity contrary to safety regulations	4	1
It results in personal loss	3	0
It ridicules older people	2	0
It takes advantage of national symbols	2	0
It infringes animal rights	1	0
It is broadcasted at the wrong time	1	0
It invokes and promotes socially unacceptable behavior	1	0
It takes advantage of children	1	0

■ References to legal regulation

Also in 2008, consumers filing complaints referred to legal regulation. In the majority of cases (68%), they referred to state regulation while 31% of complaints cited the Advertising Ethics Code and 1% – to Canon law (in relation to the House campaign). See chart 11.

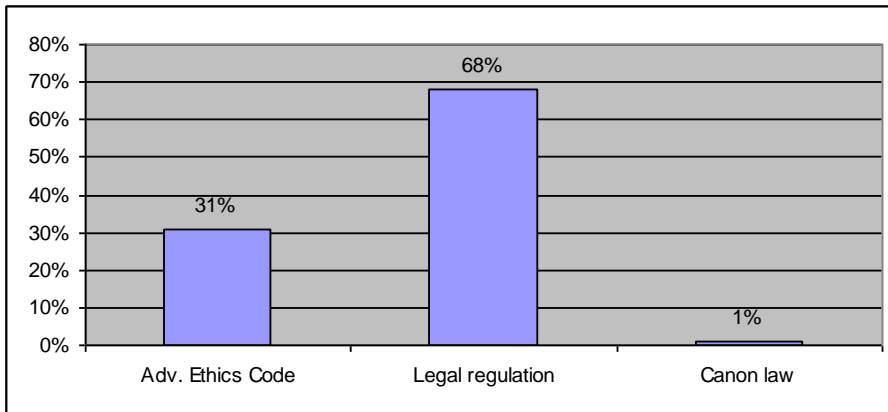


Chart 11. References to legal regulation (in %)

It can be said that in 2008 people felt more threatened regarding their basic constitutional rights (chart 12), especially when it comes to freedom of religion (art. 53 of the Constitution). Complaints on advertising infringing freedom of conscience and religion were most common (9 complaints). This was in relation to the House campaign with references to religion and virginity¹⁸. There was a similar number of complaints in which customers referred to the Penal Code (7 complaints) and to the Act on radio and television (6 complaints). Other legal references included such particular acts as ministerial regulations or the Polish Financial Supervision Authority resolutions. It was also the first time when people referred to EU legislation in their complaints.

¹⁸ The “House” Virginity used the concept of virginity. The clothing was advertised via the Internet and exterior advertising with the slogan “69 ways to hold on to virginity”. Billboards also showed a kneeling young woman or man with their hands folded as if in prayer. In the background there was the underwear and another slogan, “Save me, my Lord”.

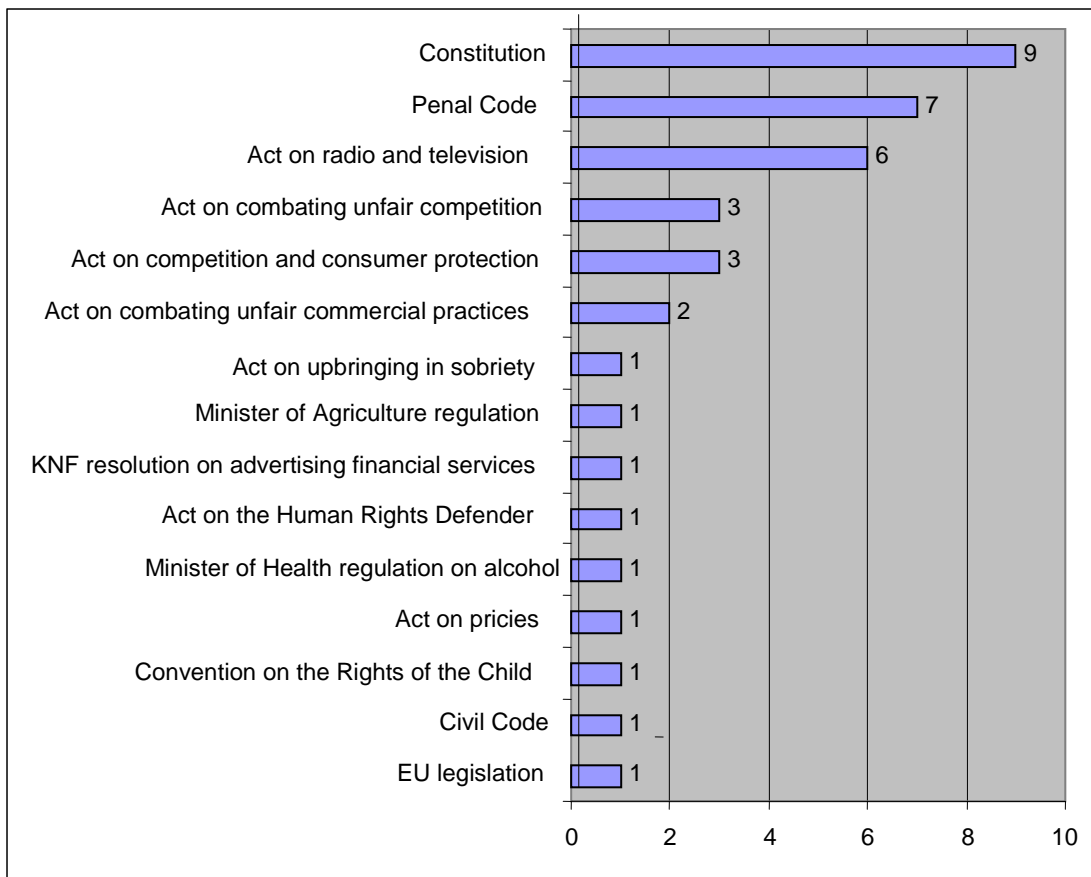


Chart 12. Complaints by reference to specific legal regulation

Comparison

First of all, noted should be a great increase in the number of complaints from 2007 to 2008. Taking into consideration data from 2006 (several complaints) and from 2009 (630), it can be said that there is growing interest in RR activity as a form of regulation of the advertising market and also that developing is consumer democracy in Poland.

Table 6. Number of complaints filed between 2006–2009

Year	Number of complaints
2006	16
2007	92
2008	435
2009	630

Meanwhile, chart 13 shows the number of complaints by medium. In this case, it is hard to note any tendencies. Despite a growing number of complaints, it is difficult to say which type of advertising irritated Poles the most. In 2007, it was TV commercials, while in 2008 – exterior and Internet advertising. In 2007, the complaints were rather divided between different brands with no brand obtaining a majority of complaints (18% being the highest percentage, cf. Table 2). In 2008, on the other hand, the House clothing advertising campaign was definitely the most controversial. Also, the fact that exterior and Internet advertising obtained roughly about the same amount of complaints (94% and 95%) is because those two mediums were chosen for the House campaign.

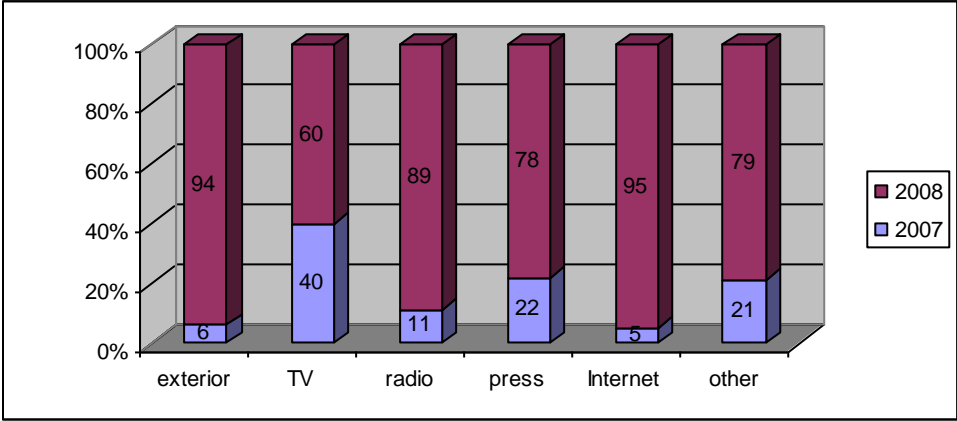


Chart 13. Percentage of complaints by medium in 2007 and 2008

Among the complainants, in both years a great majority were individuals (see chart 2 and 8). Institutions rarely used this channel for communication; in 2007 the Human Rights Defender directed one letter to the RR and it was as a result of a request made by an individual. Also, institutions such as the Office of Competition and Consumer Protection did not intervene at all, although it would be worth noting whether they were asked to do so in the first place.

As far as complainants by sex, the division is more or less equal. In 2007, more women complained but a year later the percentages were equal. Regarding place of living, dominant were complaints by people from cities (cf. chart 4 and 10) which, as mentioned earlier, could be the result of better Internet access there.

It cannot be said that there are certain advertising campaigns which generate complaints year after year. Among numerous brands which people complained about in 2007

and 2008, there were only two brands which were present in complaints in both the researched years – Play and Cropptown. Regardless which advertising campaigns caused the most dissatisfaction, the reasons for complaints are more or less the same. Tables 3 and 5 show that both in 2007 and 2008 one of the most common reasons for filing complaints was because they offended people’s religious beliefs (in 2008 it was predominantly the House campaign, for religious reasons and aesthetics) and because they had a bad influence on children and youth (this was the number one reason for filing in 2007). In 2008, noted were new reasons for complaining such as personal loss and discrimination of men. The following years will show whether people will continue to complain for these reasons.

Regarding references to legal regulations, in 2008 in comparison to 2007 (charts 5 and 11) there were not as many complaints in which people appealed to the Advertising Ethics Code. While in 2007 there was more or less an equal number of references to the Code as to the other legal acts (46% and 54%), in 2008 there was a decrease to 31% in references to the Code. Also in 2008 it was the first time when people made references to Canon law (1%, regarding House advertising). In 2008, there was a greater number of complaints in reference to specific legal acts and regulation. In 2007 (cf. chart 6), there were 11, of which 4 referred to the Animal Protection Act. Other references included the Constitution, Act on combating unfair competition and Act on tourism services. In 2008, people referred to a larger number of different acts (15) and ones which were not cited previously such as the Civil Code, Penal Code, Act on prices or the Polish Financial Supervision Authority (Komisja Nadzoru Finansowego – KNF) resolution etc. There were only four legal acts cited in both the years – the Constitution, Act on combating unfair competition, Act on radio and television and Act on upbringing in sobriety and counteracting alcoholism. In case of the first three acts, there was also a larger number of references to them (cf. chart 12). In 2008, there was also one complaint which cited EU regulation.

Conclusion

The goal of the research was to show that this kind of citizen activity can be treated as an expression of consumer democracy, indispensable to the development of civic society. The fact that consumers are active and file complaints (mostly electronically) to the RR shows that they can have an influence on producers and, in a way, regulate the advertising market. Moreover, there is an increasing number of complaints filed which only strengthens this argument. What is more, many of the complaints included a consumer boycott threat, meaning refusal to buy products which were advertised improperly. Taking into consideration

the fact that complaints on the same brands generally did not repeat themselves or that producers decided to withdraw certain advertisements or officially apologized, it can be said that despite many complaints being rejected for procedural reasons, this kind of consumer activity is effective. It should also be noted that people are taking the initiative on their own to change what they consider unsatisfying and for the most part do not use institutions to act for them. Moreover, they not only influence the advertising market but also the fate of those companies which decide to advertise. This way, met is a necessary condition of consumer democracy.

Complaints are not the only indication of consumer democracy, there is also consumer boycott and, what is more, the decision not to buy a particular product or service. Self regulation of the advertising market can be considered an expression of civic society activity. People use such structures not only to express their dissatisfaction but also to organize mass protests, i.e. the remonstrations against the House “Virginity” campaign. Results of analysis of these complaints shows that people used similar techniques, that is their complaints had almost identical content, with the only difference in personal data. So far, such massive action only took place once but it shows that people can organize themselves in a common consumer protest and use available channels for voicing discontent. Finally, the continuously increasing number of complaints filed to the RR shows that it is an institution which meets citizen expectations.

In the context of these deliberations, worth mentioning is Alvin Toffler’s¹⁹ prosumerism concept which is a combination of consumer and producer roles. The first, as a prosumer, is active and influences the other’s decisions, (i.e. making decisions about the product’s packaging) which leads to “personalization” of goods and services offered on the market. Presently, often tied is the concept of prosumer and the so called New Economy in which the key roles are played by the Internet and new technologies.

Can we, however, call Polish complainants to the RR prosumers? From a legal point of view²⁰, the term “prosumer” is a true oxymoron as the consumer is the opposite of producer who is a professional in selling goods and services. Nevertheless, every producer is also a consumer and a lot less often so – the other way around. The tradition of consumer research, based on which producers create new products or adjust them to fit consumer needs is older than the concept of “prosumerism”. It can be argued whether the phenomenon of

¹⁹ Cf. A. Toffler, *Trzecia fala [Third wave]*, Warszawa 1997.

²⁰ Cf. E. Łętowska, *Prawo umów konsumenckich*, Warszawa 1999, p. 35–36.

“prosumerism” regards adapting the product to fit individual consumer needs, which cannot be possible in case of average result of consumer research. It seems that “prosumerism” is just another marketing strategy and the “prosumer” designing his own packaging just another way of promoting an old brand. By definition, a “prosumer” is a conscious consumer, one who knows his brands and makes decisions based on acquired knowledge. It is difficult to say if complainants to the RR have such knowledge as it is also difficult to say whether such “knowledge” is a product of advertising they’ve been exposed to (then these complainants could be considered prosumers) or perhaps factual knowledge of a given product (which also does not exclude the influence of advertising on decisions made). Finally, there is the issue of whether the consumer, in order to be a conscious prosumer, needs new technologies (i.e. Web 2.0 and the Internet). Personalisation of services does not seem to be an adequate criterion to meet this concept. Let us stand by, then, the term “consumer democracy”.

Of course, increasing interest in filing complaints to the RR is not the only form of civic society activity. It is not just citizens in democratic countries who make sovereign decisions, consumers do so as well in market economies. If we take into account the tendency of complicating the election process and distorting electoral decisions due to various election strategies, we can hypothesize that it is consumers who can have a greater influence on the market than citizens on the political scene. In this case, we need to consider the concept of consumer democracy part of civic society.