

FEES FOR ADVERTISEMENTS IN THE RIGHT-OF-WAYS OF PUBLIC ROADS INCURRED BY A GIVEN BANK BRAND IN POLAND

Monika Płuciennik, M.Sc.

*Department of Spatial Economy
Wrocław University of Environmental and Life Sciences
e-mail: monika.pluciennik@up.wroc.pl*

Maria Heldak, PhD

*Department of Spatial Economy
Wrocław University of Environmental and Life Sciences
e-mail: maria.heldak@up.wroc.pl*

Ewelina Werner, M.Sc.

*Department of Spatial Economy
Wrocław University of Environmental and Life Sciences
e-mail: ewelina.werner@up.wroc.pl*

Abstract

This article aims to present the diversity in the rates of fees for advertisements on selected bank buildings located in the right-of-way, as well as the manner of calculating them. The research covered fees, incurred by a selected bank brand, for advertisements placed on all outlets of the bank in the area of the entire country in terms of the location of the buildings, means of establishing fees, rate of the basic fee, as well as costs incurred by the bank for placing advertisements in the right-of-way according to the state at the end of 2014.

Currently, one can distinguish a few means of right-of-way occupation for which fees are collected, including: for the purpose of carrying out construction works, locating technical infrastructure equipment or buildings unrelated to the needs of road or traffic management, and for placing advertisements (outdoor advertising). The basic rate of payments for occupying the right-of-way by advertising results directly from the ordinances regarding roads passed by local government units or thematic regulation pertaining to national roads. The maximum basic rate is specified by law.

This paper makes it possible to determine the scale of financial burdens incurred by a bank resulting from marking the outlets, as well as the differences in determining and calculating fees for signboards occupying the areas of right-of-ways among the many local road authorities.

Key words: *signboards, buildings in right-of-ways, right-of-way occupation.*

JEL Classification: K12, L85, R32

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1. Introduction

According to legal regulations, including the Act of 21 March 1985 on Public Roads (Journal of Laws of the Republic of Poland of 2015, pos. 460), a right-of-way is land set aside by alongside roads by border

lines with the space above and below its surface. It is not uncommon to observe structures which fall outside of the given definition. Placing other structures and devices in the right-of-way should be preceded by obtaining permission in the form of an administrative decision to occupy of the right-of-way for purposes unrelated to the construction, reconstruction, repair, maintenance and protection of roads.

Among the most important tasks assigned to a municipality (*gmina*), the legislator mentions issues connected with managing municipal roads and streets, as well as maintaining spatial order; the principles of spatial order should be a determinant of spatial planning in a municipality, definitively established in the local spatial development plan (HEŁDAK 2010, HEŁDAK, KAZAK, STACHERZAK 2012). The shape and nature of advertisements may be regulated by the local plan.

Article 40 in the Act of 21 March 1985 on Public Roads regulates the issue of right-of-way occupation for purposes unrelated to the needs of road or traffic management. Currently, one can distinguish a few means of occupying the right-of-way for which fees are collected, including: for the purpose of carrying out construction works, by technical infrastructure unrelated to the needs of road or traffic management, and by advertisements (outdoor advertising). Additionally, the Act introduces one more category of right-of-way occupation on an exclusive basis for purposes other than those mentioned above.

Outdoor advertisements in Poland, despite the significant computerization of society, still remain effective sources of information. In Western Europe, as well as in the United States of America, much importance is placed on outdoor advertising.

The success of companies which produce similar goods, as a result of rapidly changing market conditions and heightened competition, depends largely on the extent to which they are able to use market communication components professionally and rationally. These factors oblige enterprises to undertake promotional activities in order to achieve their business objectives and to boost their market-share so they can gain a competitive advantage over their business rivals (GULMEZ, KARACA AND KITAPCI 2010). Outdoor advertising presents a unique case in that, unlike advertising in other media, an individual's capacity to avoid exposure is inhibited. Unlike the "private world" of magazine and television advertising, outdoor advertising is displayed throughout public space, thus making regulation of the medium a pertinent public policy concern (ROSEWARNE 2005).

Enterprises utilize several types of instruments in their advertising strategies, an example of which are outdoor advertisements. The term "Outdoor Advertising" corresponds to any advertisements located in open air, i.e. outdoor areas. An outdoor advertisement is the only advertising medium to which we are exposed involuntarily (GULMEZ, KARACA AND KITAPCI 2010).

One way to increase the number of shopping trips to a given store is by advertising. As a result of enormous expenditures and the attention given by companies to advertising their products and services effectively, consumers are exposed to more persuasive advertising pressure than ever before (NEUNER, RAAB AND REISCH 2005, MIKOŁAJCZAK-DEGRAUWE AND BRENGMAN 2013). However, despite the longstanding regulatory debate over outdoor advertising, only a limited number of academic studies have explored why firms use the medium (TAYLOR AND FRANKE 2003).

Billboards are the most common and widely used forms of advertising media (BERKOVITZ et al. 1994, LICHTENTHAL et al., 2006). When compared to other media tools, the share of outdoor advertisements as a proportion of total advertising expenditure is increasing – albeit slowly (GULMEZ, KARACA AND KITAPCI 2010). The last decade, especially, has witnessed profound changes in advertising and the profession that supports it. These changes have important implications for research on advertising (STEWART 1992, 2013).

The research aims to analyze the right-of-way occupation fees for placing advertisements, as well as indicate the diversity of the fees and as means of their calculation for marking the outside of a the outlets of a selected bank brand located in different cities throughout Poland according to the state at the end of 2014.

2. Methodology

The study used source documents based on the authors' own direct observations, which have the benefit of high reliability and extensive possibilities of interpretation. The information comprising source materials, which are the basis for the carried out studies, are not collected by governmental departments of public statistic or other units operating in the field of real estate.

The method of comparative analysis was used for data analysis. It is one of the most commonly

applied methods. Payments for the availability of the right-of-way are compared in order to determine the specific dependencies, such as identity, similarity or the difference between features and facts. This method is used to establish and assess essential cause and effect relationships occurring in the research area.

The analysis covered signboards and banners permanently placed on the facades of the bank buildings of a selected bank brand in 2014. Of the 462 locations of bank branches, occupation of right-of-ways applies to only 217 of them. The remaining 245 locations did possess any outside markings within right-of-ways, i.e. the signboards or banners are within the space of privately-owned real estate.

The fees for the occupation of the right-of-way applied to 205 bank branch locations throughout Poland. In the case of the remaining 12 locations, fees were not charged due to a lack of legal basis established by local government units. The study was conducted before the Act of 24 April 2015 on amending certain acts in connection with the strengthening of landscape protection tools became effective. The research will be continued in the coming years in order to compare the bank's liabilities for occupying right-of-ways.

3. Discussion

3.1. Types and rules of placing advertisements in the right-of-way

According to the earlier-mentioned Law on Public Roads, an advertisement is a carrier of visual information along with structural elements and fixings, placed in the road users' field of vision, which is not a sign in the understanding of regulations on signs and signals or information sign on public service buildings established by the municipality. Along with the Laws of 24 April 2015 amending certain acts in connection with the strengthening of landscape protection tools on 09.11.2015 entering into force, the definition of an advertisement is going to change. Once the above Act enters into force, an advertisement is to be understood as a billboard or advertising device, in the meaning of Art. 2, Points 16b and 16c of the Act of 27 March 2003 on Spatial Planning and Development (Dz. U. of 2015. Pos. 199, 443 and 774) placed in the field of vision of road users, as well as any other carrier of visual information, along with its construction elements and fixings, which is not a traffic sign, defined in regulations issued pursuant to Art. 7 of the Law of 20 June 1997 – Road Traffic Law (Dz. U. of 2012. Pos. 1137 as amended. D.), an information sign placed by a municipality providing information on buildings located near the road – including public service buildings, an information sign on the form of monument conservation, or information board referring to the forms of environmental protection in the meaning of Art. 115 of the Act of 16 April 2004 on Nature Conservation (Dz. U. of 2013. Pos. 627, as amended. D.).



Fig. 1. Examples of signboards and banners. *Source:* own elaboration.

Placing a signboard in the right-of-way can happen only with the approval of the road administrator. The permit is issued in the form of an administrative decision. The decision takes into account the type of investment, as well as the method, place and conditions of its placement. The provisions of the Act on public roads allow the authority to refuse authorization when placing the

advertisement would endanger road safety, violate the requirements resulting from separate regulations or result in the loss of warranty or guarantee concerning the construction, reconstruction or repair of roads.

Issuing an administrative decision regards any person who applies for a permit to occupy a right-of-way in order to locate and place advertisements in this area, and also carry out works in the right-of-way associated with the mounting or renovation of advertisements.

Advertisements are allowed to be placed only in areas which do not cause disruptions in pedestrian traffic and when entering or exiting. The content of a carrier, an element of visual information, cannot be a legally prohibited advertisement. In addition, signboards placed in the area cannot hold the shapes and colors forming the background of road signs.

Annexes to the application for a permit for locating an advertisement must often be made on a current map showing the location of the advertisement (scale 1: 500, 1: 1000) within the borders of a road property, as well as a scale of 1: 1000 or 1: 25000; they should include the graphic design along with the colors and content, as well as the consent of the owner of the building in the case of mounting an advertisement on a building or fence, or other structures placed in the right-of-way.

A fee is charged for placing an advertisement in the right of way, constituting the own revenue of the manager of the road. The fee is calculated as the product of the amount of square meters of advertising surface, the number of days of occupying the right-of-way, and the fee for occupying 1 m² of roadway. The fee is payable in advance for the entire period specified in the decision, within 14 days from the day on which the decision setting its amount becomes final.

The Law on Public Roads defines the maximum fee for right-of-way occupation; in the case of fees for placing advertisements in the right-of-ways of public roads, such fee is 10 PLN per one day occupying the right-of-way per 1 m² of advertising surface. If the surface area of the advertisement does not exceed 1 m², an area of 1 m² is adopted when determining the fee. The rate of the fee for roads managed by the General Directorate for National Roads and Motorways is established by a Decree of the Minister of Infrastructure of 18 July 2011 on the rates of fees for occupying the right-of-way of roads administered by the General Director for National Roads and Motorways (Dz. U. of 2014. pos. 1608). In the case of roads managed by the local governments, their constitutive organs decide on the amount of fees for occupying 1 m² of right-of-way by means of resolutions. When setting the rates, the competent authorities take into account the category of the road whose right-of-way is occupied and the type of element of the occupied right-of-way. Important factors in determining the rates are also the type of device or building structure, form of occupying the right-of-way, and width of the occupied right-of-way.

Right-of-way occupation without proper authorization, exceeding the deadline specified in the permit or in the case of the area being larger than agreed on in the permit, results in the road manager giving a fine in the amount of 10 times the fee for road area occupation established by the administrative decision.

3.2. The method of calculating fees for bank advertisements

In the studies it was found that 205 of the 462 locations of bank outlets in Poland were covered by a fee for occupying the right-of-ways of roads in 2014. The reason for the discrepancies between the number of advertising components within right-of-ways and the number of decisions is the freedom authorities have when interpreting the definition of an advertisement.

Some municipalities hope to increase profits from fees for outdoor advertising. The subject of real estate management in the municipality are actions concerning two separate areas:

- 1) property of municipalities,
- 2) property of other entities (private, state, county and provincial self-government).

In the first case, the activities of municipalities are direct. It is the owner or perpetual usufructuary, and in direct control of the real estate. In the second case, the municipality plays the role of local groundskeeper, carrying out the spatial policy and socioeconomic development policy in its area, treating real estate management as an instrument for shaping space, and controlling the development processes (CYMERMAN 2009).

For the managers of public roads, signboards with the names of companies placed on buildings where entrepreneurs carry out their business activities are the identification of the entrepreneurs, not advertisements. A different municipal office treats the external markings of a bank outlet as a signboard, which, according to the dictionary of foreign words, is a "board at the entrance to a store,

workshop, institutions, etc., providing information as to its name", and, therefore, the authority does not treat the indicated signboard and banner as an advertisement, and does not charge a fee for occupying the right-of-way.

The external identification of the outlets of the selected bank in the form of a banner assumes two standard sizes of banners: 0.65 m x 0.9 m or 0.65 m x 1.00 m, which gives an advertising area of 0.585 m² and 0.65 m². According to regulations of the Act on Public Roads, the fee for placing an advertisement in the right-of-way is calculated depending on the area of the advertisement. The minimum size is 1 m². Various road managers treat this provision differently. When a bank applies for a decision, it includes the specific dimensions of the advertisement and indicates whether the advertisement is double-sided. Provided with such specific information, road managers determine the area of the advertisement in the following way:

- 1) taking into account the surface of one side of the advertisement. If it is less than 1 m², the result is rounded to the surface area required by law, and next the double-sidedness of the advertisement is accounted for;
- 2) taking into account the total surface area of both sides, which is greater than 1 m², and using this surface area to calculate the total amount.

In the first method of calculating the surface area, the bank pays more, because every signboard is considered an advertisement, resulting in an advertising surface of 2 m². This situation occurs only in 6 cases. Other decisions take into account the area described in the second method.

The elements that make up the external markings of bank outlets are also treated selectively by road managers. Banners mounted on the facades of buildings are regarded as equipment included in the right-of-way in the case of 19 locations within 10 cities. The fees for these advertisements amount to 29% of the total expenses incurred by the bank (Table 1). The reason behind such a large share in expenses is the area of the signboard, which often exceeds the size of 5 m².

Table 1

Fees for right-of-way occupation according to the type of advertisement

	The number of locations	%	The fee for the selected element [PLN]	%
Signboard	197	96.1%	200,519.01	70.1%
Banner	19	9.3%	83,053.66	29.0%
Bank label over a cash machine	13	6.3%	2,583.59	0.9%

Source: own elaboration.

Another type of advertising tool which is considered in the permits for placing an advertisement in the right-of-way is the bank label over a cash machine. Road managers treated this element as an object in the right-of-way in 6.3% of the locations, while the surface area necessary to calculate the amount of payment was specified as the vertical projection onto the surface of the right-of-way. Therefore, the object is not treated as an advertisement within the meaning of the Act on Public Roads.

3.3. Rates of fees applied in Poland

The rate per 1 m² of signboard placed in right-of-way of a public road is the direct result of the adopted resolutions or regulation, which depends on the category of road. Theoretically, the lower the category of road, the smaller the fee for occupying the right-of-way by advertisements should be. This results from traffic intensity of a given road, which reflects the number of people who can see the advertisement.

Selected road managers also calculate a 100% higher fee when the advertisement is illuminated. They often adhered to this unwritten rule, which is currently sanctioned by the law. The highest rates were laid down for national roads, with the lowest for municipal roads.

The Act on Public Roads determines the maximum daily rate for 1 m² surface area of an advertisement placed in the right-of-way as 10 PLN. Road managers carefully refer to indicated value. In practice, road managers are cautious in referring to the indicated value. The rates established for the majority of roads are much lower, starting from 0.15 PLN/m². The over five times lower than the average price for placing 1 m² of advertisement in a right-of-way proves that the rates are selected

reasonably, accounting for the situation of entrepreneurs on the market.

Table 2

Distribution of rates for road area occupation, depending on the type of road

Type of road	Number	The prices discrepancy			The average fee per 1 m ² [PLN]
		min [PLN]	median [PLN]	max [PLN]	
National	6	4.00	4.00	8.00	5.33
Provincial	13	0.20	2.50	3.00	2.25
District	46	0.20	2.00	4.00	1.92
Municipal	140	0.15	1.35	10.00	1.63
Total	205	0.15	1.50	10.00	1.84

Source: own elaboration.

The distribution of rates for placing 1 m² of advertisement in the right-of-way in the entire area of Poland is shaped according to the predictable qualities, i.e. according to the statistical probability distribution, similar to a normal distribution (Fig. 2). The normal distribution has an important role in statistical description of environmental, industrial, medical, social issues, etc. The reason for its importance is its prevalence in nature (Daphne J., 2007). It describes a situation in a world where the majority of cases are close to the mean result, and the more a given result deviates from the mean, the less frequently it is represented. Cases close to the average are the most common. The further away from the average result, the fewer cases of occurrence. This can be easily applied to real situations.

According to the definition of normal distribution, the rate for placing 1 m² of advertisement in the right-of-way is set most frequently within the range defined by the difference of the value of standard deviation from the mean (0.46 PLN / m² - 3.22 PLN / m²). 88.3% of the rates set in the analyzed area fall into this range.

The maximum rate, which is permitted by the Act on Public Roads, can be observed only in the case of two locations determined by one road administrator – the City of Bielsko-Biala. Their rate differs significantly from others established in the given market.

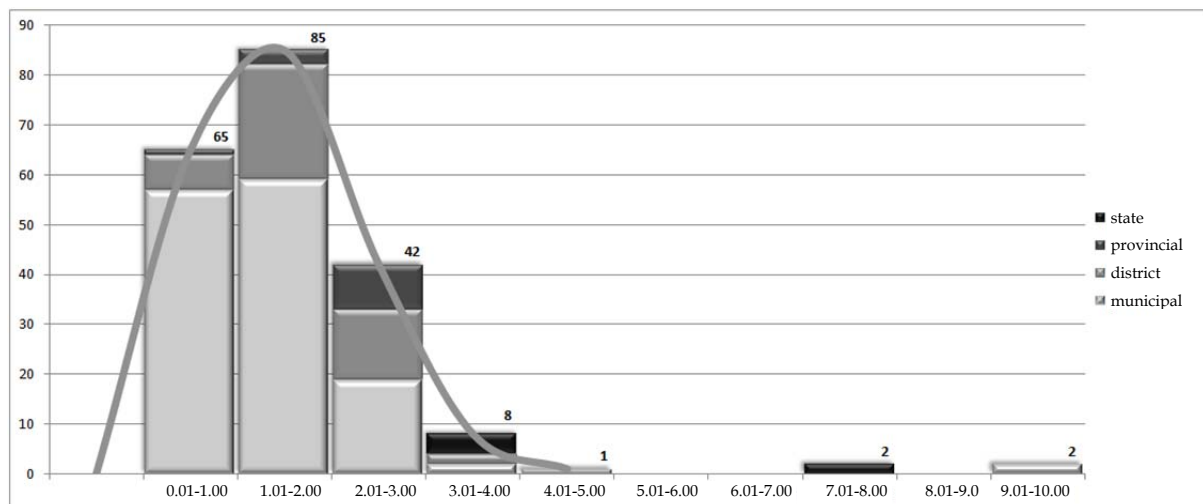


Fig. 2. Road categories and the rates of fees for placing 1 m² of advertisement in a right-of-way. Source: own elaboration.

3.4. Prolongation of the period of occupying a right-of-way

The payment for occupying a right-of-way by an advertisement in 2014 was a fee calculated according to the daily rate. Thus, the decisions authorizing the placement of an advertisement in the right-of-way were decisions given for a specified period of time, which resulted in the necessity to prolong the indicated permit. The Act on Public Roads does not define the minimum or maximum duration of

such decision. This depends on the will of the applicant who wishes to place an advertisement in the right-of-way.

However, the managers of roads often define the maximum time of placing advertisements in a right-of-way. The usual time for this type of administrative decision is a period of 1 year. Even when the application is for a period suitable for the applicant equal to a period of several years, administrative decisions are issued for a period deemed suitable by the office, that is a period of one year. Road managers issuing decisions for 143 locations across the country adhered to this principle. The rationale behind this is the form in which the payment of the fee is made, i.e. in advance for the entire period of placing the advertisement in the right-of-way. The managers try to protect themselves from collecting lower fees, in the case of an increase in rates.

An exceptional case of an administrative decision is one characterized by an unlimited period of validity of the permit, issued in 2002 by the administrator of the public roads of the City of Swinoujście. The payment of the fee for placing an advertisement in the right-of-way shall be carried out in accordance with the provisions of the decision: "Payment for placed advertisements will be valued according to the current rates of fees, payable semi-annually by transfer, by the 15th of January and 15th of July of each year, to the account number provided on the payment document." In line with the above, the bank receives an appropriate invoice to pay for each of the payment periods. This situation does not entail the renewal of permits for occupying the right-of-way, as is the case in the others.

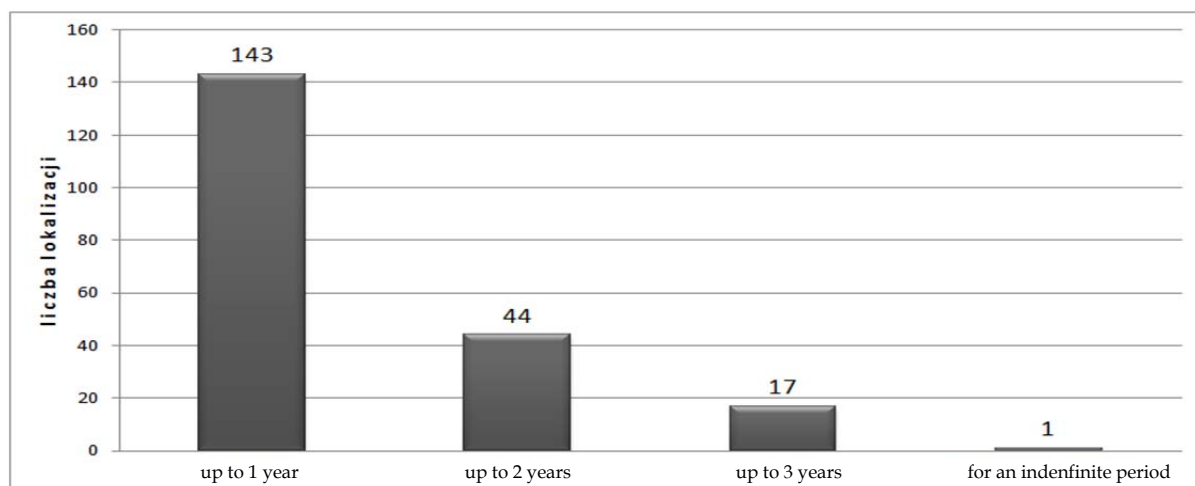


Fig. 3. The number of locations for the various periods of occupying the right-of-way. *Source:* own elaboration.

The form of renewing the decision is also controversial. Some managers require only a written request for extending the period of occupying the right-of-way delivered by an authorized person. The application must include information about the location, the surface area of the advertisement and the period of occupation. Others treat the application as a new administrative proceeding, and require a set of documents, i.e. the application, a cadastral map or base maps with the marked location of the advertisement, the design of the advertisement, and a permit or opinion from the Conservator of Monuments, each time. Often, the above mentioned documents must be originals; these are in the possession of the manager of the roads, making it necessary to obtain following permits and opinions from the Conservator.

3.5. The fee for occupying the area of a right-of-way as a cost incurred by the bank

Various fees and the selective treatment of the components of an advertisement results in differences between the costs incurred by banks for occupying a right-of-way for the purpose of placing advertisements. The main differences in the costs incurred for advertisements as well as for only an component of an advertisement, such as a signboard, can be observed when looking at a graphic representation of the provinces (Fig. 4).

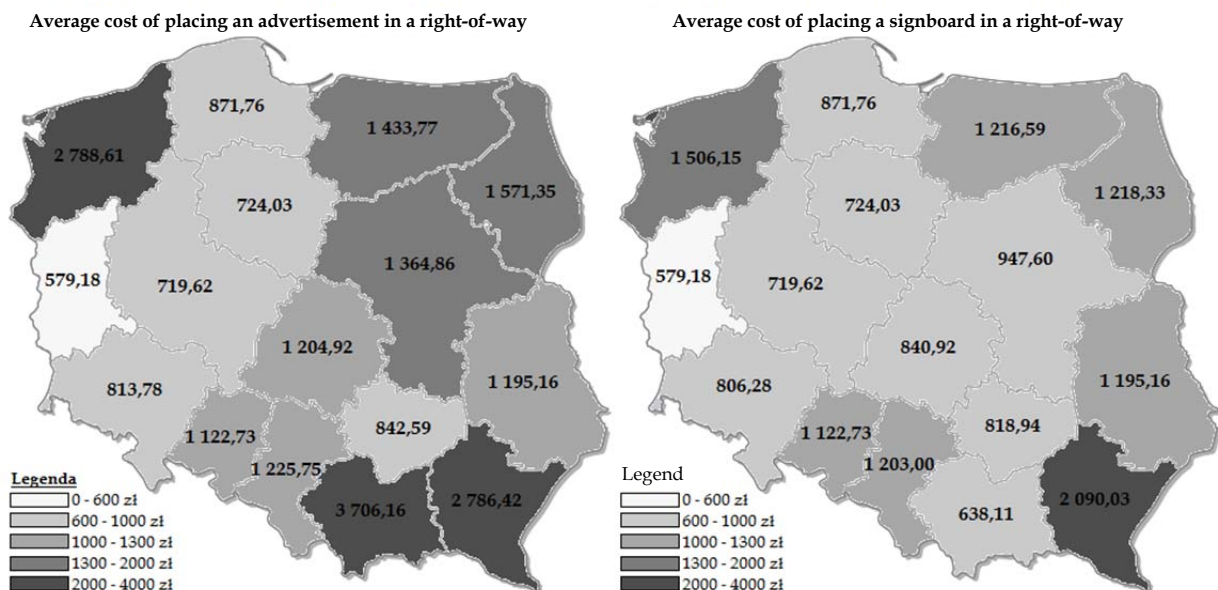


Fig. 4. The average cost of an advertisement and signboard in the right-of-way in the individual provinces of Poland in 2014. *Source:* own elaboration.

The average cost of placing an entire advertisement in the right-of-way for one bank outlet per year is 1,395.88 PLN. If all of roads managers collected a fee for only for the signboard, the average cost of placing an advertisement for one location would amount to 978.14 PLN, more than 30% less compared with the current situation.

The exact cost difference can be seen on the example of the Małopolska (*Małopolskie*) Province. The average fee is 3,706.16 PLN for a single location, when accounting for all the components of an advertisement. If the fee were charged only for the signboard, then the cost of one location would decrease almost sixfold, to 638.11 PLN. In the West Pomerania (*Zachodniopomorskie*) Province, the cost would decrease by nearly 50%, 40% for the Mazovia (*Mazowieckie*) Province, almost 30% in the case of Lodz (*Łódzkie*) and Podkarpacie Provinces.

Table 3
The annual fee for placing an advertisement in a right-of-way in 2014 depending on location

	Number of locations	Total fee for one year [PLN]	Average fee in big cities [PLN]	Average fee in small cities [PLN]
Lower Silesia Province	22	17,903.22	1,087.76	624.11
Kujawy-Pomerania Province	13	9,412.38	828.80	601.80
Lublin Province	11	13,146.71	972.90	1 584.10
Lubuskie Province	6	3,475.06	770.80	540.85
Łódź Province	11	13,254.14	992.01	1,326.59
Małopolska Province	17	63,004.69	7,671.70	930.28
Mazovia Province	20	27,297.10	1,743.04	1,055.43
Opole Province	6	6,736.35	no data	1,122.73
Podkarpacie Province	4	11,145.66	2,856.77	2,716.06
Podlasie Province	5	7,856.77	1,729.32	939.51
Pomerania Province	5	4,358.82	952.89	750.08
Silesia Province	39	47,804.26	1,374.25	730.75

Świętokrzyskie Province	5	4,212.94	867.24	805.61
Warmia-Masuria Province	6	8,602.59	1,309.23	1,458.67
Wielkopolska Province	24	17,270.90	708.53	724.19
West Pomerania Province	11	30,674.67	4,034.66	1,750.23
Poland	205	286,156.26	1,743.74	1,103.81

Source: own elaboration.

A dependence of the level of the fee on the size of the city where the advertisement is located can be observed. Big cities were considered to be those with district rights. Placing an advertisement in the right-of-way of a road in a large city is more expensive than in a smaller town in the majority of provinces (Table 3). Malopolska and West Pomerania provinces stand out in particular. The managers of the road in the indicated provinces have higher incomes from right-of-way occupation by advertisements as they charge a fee for all components of an advertisement, including the banner.

The annual costs incurred by an average bank brand in Poland resulting from occupying right-of-ways by advertisement amounted to 286,156.26 PLN for 205 advertisements.

4. Conclusions

The research showed that costs resulting from the occupation of right-of-ways by advertisements in Poland in 2014 were not uniform. Despite the provisions of the Act on Public Roads, road administrators freely interpreted issues connected with calculating fees.

A controversial issue is determining the surface of advertisements and components of outdoor advertising, which are treated as an element entering into a right-of-way. A few road administrators give priority to the regulation regarding accepting an area of 1 m² of advertisement surface as the minimum surface area for which a fee is charged, and apply it prior to determining the surface of a double-sided advertisement. Frequently, managers of roads treat only the signboard as an advertising component for which a fee is calculated. In cases when the remaining components of advertisements (such as banners) are also regarded as elements subjected to a fee, the costs of placing an advertisement in the right of way increase drastically, sometimes by as much as over 500%.

Another element affecting the differentiation of costs incurred from occupying a right-of-way is the means of obtaining further permits, as well as the period of time for which permits are issued. The Act on Public Roads does not indicate a minimum period of time for which a permit can be issued. Road managers, hoping to avoid potentially lower incomes to the budget, issue limited-time permits for placing advertisements, usually falling within the timeframe of a year. This makes it possible to obtain higher incomes in future years in the event that the rate for placing an advertisement increases.

For an average bank in Poland, which, as a large business, often places advertisements in right-of-ways of roads, costs incurred as a result of the above amount to hundreds of thousands of zlotys. The spread of bank outlets across the country does well to illustrate how the described administrative task is treated by local government units and by the General Directorate for National Roads and Highways. The analysis of costs and means of calculating fees indicates discrepancies that lead to the confusion of entrepreneurs concerning this issue.

The occupation of right-of-ways, regulated by the Act on Public Roads, is an issue that, in addition to advertisements, also covers activities such as carrying out construction works in a right-of-way, as well placing technical infrastructure equipment and building structures unrelated to the needs of road or traffic management. Among the mentioned elements, one can list stairs and balconies protruding beyond the contour of a building, extending into the right-of-way of a road, which are not covered by the Act.

On 11.09.2015, the Act of 24 April 2015 on amending certain acts in connection with the strengthening of landscape protection tools comes into force, also introducing changes in the manner of collecting payments for placing advertisements in right-of-ways. This is a contribution to continuing research on the topic in the following years.

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